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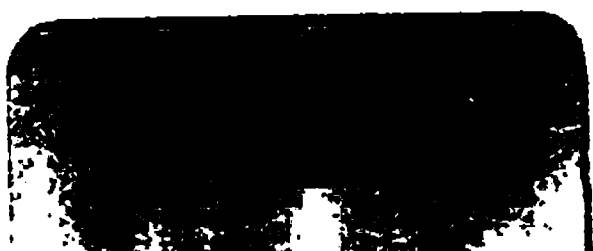
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REPORT

OF THE

TWENTY-THIRD ANNUAL MEETING

OF THE

American Bar Association

HELD AT

SARATOGA SPRINGS, NEW YORK,

August 29, 30 and 31, 1900.

PHILADELPHIA :
DANDO PRINTING AND PUBLISHING COMPANY,
34, SOUTH THIRD STREET.
1900.

THE
TWENTY-FOURTH ANNUAL MEETING

WILL BE HELD AT
DENVER, COLORADO,

On Wednesday, Thursday and Friday,

August 21, 22 and 23, 1901.

TRANSACTIONS
OF THE
TWENTY-THIRD ANNUAL MEETING
OF THE
American Bar Association,
HELD AT
SARATOGA SPRINGS, NEW YORK,
AUGUST 29, 30 AND 31, 1900.

Wednesday, August 29, 1900, 10.30 A. M.

The Twenty-third Annual Meeting of the American Bar Association convened in the ball room of the Grand Union Hotel, Saratoga Springs, on Wednesday, August 29, 1900, at 10.30 A. M.

The meeting was called to order by U. M. Rose, of Arkansas, a member of the Executive Committee, who introduced Charles F. Manderson, of Nebraska, the President of the Association.

Charles F. Manderson, the President of the Association, then took the chair and delivered the President's Address.

(See the Appendix.)

James B. Thayer, of Massachusetts:

Mr. President, in the Address of the President some remarks were made with reference to Lord Russell of Killowen, and the hope was expressed, Mr. President, that the Association might take some action touching his death. I should like, sir, to make a motion that a minute on that subject be entered upon the records of the Association, and I will read the minute that I propose:

The American Bar Association has heard with peculiar sorrow of the death of Lord Russell of Killowen, Lord Chief Justice of England, and desires to enter upon its records some permanent expression of honor and esteem for his memory.

The members of this Association had followed and known well that brilliant career which made Sir Charles Russell the conspicuous and admired leader of the English Bar, and they had rejoiced at the elevation of one so competent to the great office which he held with such distinction at the time of his death. Four years ago we welcomed him here as our chief guest. Recalling now the noble address which he delivered to us on the 30th of August, 1896, and the deep-felt enthusiasm inspired in the hearts of all who listened to him, the members of this Association record their admiration for the manner in which he has filled his high office, their grateful recollection of his visit here, their affectionate regard for his memory, and their respectful sympathy with the Bench and Bar of England in so great a loss to our common profession.

Edward F. Bullard, of New York :

Mr. President, I second the adoption of the minute proposed to the memory of Lord Russell.

The minute was unanimously adopted by a rising vote.

New members were then elected.

(See List of New Members.)

The list of delegates from State Bar Associations accredited to this meeting was then read by the Secretary.

(See List of Delegates.)

The President :

The next business in order is the election of the General Council.

A recess of ten minutes was then taken, after which the General Council was elected.

(See List of Officers at end of Minutes.)

The President :

Next in order is the report of the Secretary.

John Hinkley, of Maryland, Secretary, read his report.

The President:

The report will be received and placed on file.

(See the Report at end of Minutes.)

The President:

We will next hear the report of the Treasurer.

Francis Rawle, of Pennsylvania, Treasurer, read his report.

The President:

This report will be received, and referred to the following *Auditing Committee*: William L. January, of Michigan, and Thomas H. Robinson, of Maryland.

(See the Report at end of Minutes.)

The President:

Next in order is the report of the Executive Committee.

The report of the Executive Committee was read by the Secretary.

The President:

The report will be received and placed on file.

(See the Report at end of Minutes.)

The President:

I appoint the following *Reception Committee*:

Walter S. Logan, of New York.

Godfrey Morse, of Massachusetts.

Henry Stockbridge, of Maryland.

J. Alston Cabell, of Virginia.

David L. Withington, of California.

Clarence A. Lightner, of Michigan.

Henry Budd, of Pennsylvania.

I will ask the members of this committee to meet with the Chairman at as early a moment as possible, and take whatever measures may seem to them best fitted for the entertainment of ourselves, more particularly, and any guests that there may be of the Association.

That closes the order of business for the morning.

A recess was then taken to 8 o'clock P. M.

EVENING SESSION.

Wednesday, August 29, 1900, 8 P. M.

The President called the meeting to order.

The President :

The Secretary reports that a number of new members have been proposed.

New members were then elected.

(See List of New Members.)

The President :

The first order of the evening is a paper by Richard M. Venable, of Maryland, on "Growth or Evolution of Law." The Chair takes great pleasure in introducing Mr. Venable.

Mr. Venable then read his paper.

(See the Appendix.)

The President :

Before calling attention to the next paper, which is one of exceeding interest; the Chair will announce that the Committee on Publications will consist of the following gentlemen :

Charles Borchertling, of New Jersey.

James Hagerman, of Missouri.

James Barr Ames, of Massachusetts.

Robert M. Hughes, of Virginia.

Henry C. Ranney, of Ohio.

I now take great pleasure in introducing Mr. Edward Avery Harriman, of Illinois, who will read a paper entitled "*Ultra Vires Corporation Leases.*"

Mr. Harriman then read his paper.

(See the Appendix.)

The Association then adjourned to Thursday morning at 10.30 o'clock.

SECOND DAY.

Thursday, August 30, 1900, 10.30 A. M.

The President called the meeting to order.

The President :

The Secretary has some names of gentlemen who have been recommended by the General Council for election to membership in the Association, which he will now read.

Additional new members were then elected.

(See List of New Members.)

The Secretary :

The Association of Referees in Bankruptcy will hold a meeting this afternoon at three o'clock in the Club House adjoining and anyone interested is requested to attend.

The President :

It affords me very great pleasure, as I know it will be to the entire satisfaction of the members of the Association, to state that the Annual Address this year is to be upon a very important topic, the subject of the address being "The March of the Constitution," and I take pleasure in introducing Mr. George R. Peck, of Chicago.

The Annual Address was then delivered by George R. Peck, of Chicago, Illinois.

(See the Appendix.)

The President :

Before passing to the regular order the Chair will announce the following gentlemen to constitute the Committee on the Dinner :

Francis Rawle, of Pennsylvania.

J. Franklin Fort, of New Jersey.

W. P. MacRae, of Virginia.

J. Alston Cabell, of Virginia.

H. H. Johnson, of Ohio.

The regular reports of committees are next in order.

William Wirt Howe, of Louisiana :

Mr. President, I would ask unanimous consent at this time to present the report of the committee appointed last year on the Celebration of "John Marshall Day." Some of us are going away, and it is desired that this report may be printed this afternoon and, after being printed, distributed among the members of the Association.

The President :

Unanimous consent is asked for the purpose stated. Is there objection? The Chair hears none, and the report will be received.

Unanimous consent having been given, the report of the Special Committee on "John Marshall Day" was then read.

(See the Report in the Appendix.)

The President :

The report will be received, printed and placed on file. What is the pleasure of the Association with reference to the several resolutions? Shall they be considered together?

Spencer C. Doty, of New York :

I move that the report and resolutions contained in it be adopted as a whole.

Alexander New, of Missouri :

I second that motion.

The report and the resolutions were then adopted.

The President :

The Committee on Jurisprudence and Law Reform.

Robert S. Taylor, of Indiana :

At the last meeting of the Association there was referred to this committee the subject of liability for torts committed upon the high seas, causing death. The committee has considered the subject, and its report has been printed and I presume it has come to the hands of all the members, and I therefore will not read the report which I have in my hand. Subsequently to the signing of this report and to the time

when it was placed in the hands of the Secretary for printing, considerable correspondence took place between the committee and others interested in the subject, particularly with the Law Committee of the Maritime Association of New York, by whom several amendments to the pending bill were suggested. The terms of the reference to your committee covered only the subject of torts committed upon the high seas causing death. A bill is pending now in the House of Representatives and is in the hands of the Judiciary Committee of that body in relation to that subject, and that bill is confined in its terms to remedies for torts of that particular class.

Your committee, having appended to the report as it was printed a simple endorsement of the principle covered by the bill and an approval of it as it stands, desires to amend that resolution as it is now submitted to the Association to read as follows:

*“Resolved, That in the judgment of this Association the ends of justice and the harmony of the law will be promoted by the incorporation of the principles of Lord Campbell’s Act into the maritime law of the United States, and the Association expresses its approval and commendation of the general principle of House Bill No. 9197 now pending in Congress, designed to accomplish that purpose, with the suggestion”—*and this is the amendment—*“however, that it will be advisable to include in the bill, by amendment, vessels carrying freight, and injuries to property as well as to persons, and to omit the provision for jury trials if the proceeding shall be in admiralty.”*

You will see by reference to the printed report that the bill, a copy of which is made part of the report, provides in general terms for the trial of causes by jury, and gives jurisdiction both in admiralty and in the circuit courts of the United States. It is the opinion of the committee that it would be a questionable policy to introduce in this way the innovation of jury trials in admiralty proceedings, inasmuch as the bill itself gives jurisdiction both to the circuit courts and to the district courts

sitting in admiralty. It puts it within the power of a claimant to have a jury trial if he wishes it by bringing his suit in the circuit court.

The committee beg leave to submit the amended resolution to the judgment of the Association.

The President :

The report of the committee being received and printed will be filed, and the question comes on the resolution as amended by the committee. What is the pleasure of the Association with reference to it?

Edward A. Harriman, of Illinois :

I move that it be adopted.

Robert M. Hughes, of Virginia :

I move that it be amended by adding also a proviso shortening the period of limitation. You will observe that the period of limitation as prescribed in the act is five years and it applies to actions *in rem* and *in personam*. I do not know any class of causes where evidence is more liable to be quickly lost than the evidence of seamen on vessels which change their crews on almost every trip. Therefore, even as between the original parties, it seems to me that the five year limitation prescribed by the act is too long. Even in the original personal actions which had their rise in Lord Campbell's Act, the limitation was only twelve months; and yet this bill makes a limitation of five years, not only in actions *in personam*, and not only in jury actions, but even in actions *in rem*. Now the effect of that is to keep a secret lien alive for five years even against an innocent purchaser, and it does not permit that purchaser to set up in defence the doctrine of staleness as ordinarily administered in an admiralty court.

I am in entire sympathy with the main purpose of the bill to introduce the principles of Lord Campbell's Act into the maritime jurisdiction, but I do think that when the effect of this act is to create a secret lien *in rem* the limitation of five years is too long and as against the innocent purchaser it will have a very serious effect.

Mr. Hughes' amendment was to add to the resolution the words "and that the limitation of time for commencing suits be one year instead of five years."

Robert S. Taylor, of Indiana: •

I think I may say for the committee that they will be glad to accept the amendment the gentleman has proposed. This being a bill already pending, the committee do not feel called upon to go minutely into all the possible improvements that might be made to it, as they felt content to approve the general principles of the bill. But I think the suggestion made by the gentleman is a good one and that the bill would be improved by a limitation to a shorter time.

The President:

The committee having accepted the amendment, the question is upon the resolution offered by the committee with this amendment, which they have accepted.

The resolution as amended was adopted.

The President: .

Has Judge Taylor anything further to report from his committee?

Robert S. Taylor:

No, sir; except to say this: Trusts and combinations was another subject referred to the committee, with directions to make suggestions of such means as might be made effectual to discriminate in law between those trusts and combinations that are injurious to society, and those that are not; and, while the committee has had the subject under consideration, and has given it attention, I am sorry to say that we have not been able to agree upon a report.

The President:

The committee will be granted further time by unanimous consent.

The report of the Committee on Judicial Administration and Remedial Procedure is next in order.

12 COMMITTEES—JUDICIAL ADMINISTRATION. COMMERCIAL LAW.

The report of the committee was read by Alvin J. McCrary, of Iowa.

(See the Report in the Appendix.)

The President: .

The report of the committee will be received and filed.

The report of the Committee on Legal Education and Admission to the Bar. That order will be passed for the present, as there does not seem to be any member of that committee in the hall at this moment.

Next is the report of the Committee on Commercial Law.

Walter S. Logan, of New York:

Our report has been printed and I shall not read it. Those of you who are interested in the subject, have read it and understand it, and those of you who are not interested, would not understand it if I should read it now.

The constitution makers, among the privileges and powers conferred on the general government invested it with the power to pass a bankruptcy law and this was by no means the least important of the powers granted to it. During the onward march of that constitution of which you have heard so much and so eloquently to-day, Congress has passed several bankruptcy laws which have been afterwards repealed. Our committee and this Association took the ground at the last meeting that the present bankruptcy law was beneficent legislation and that it should become a part of the permanent jurisprudence of the American Nation, but that a bankruptcy law which was to become such a permanent part of our jurisprudence should be a law which was worthy of its place; a law that was just and clean; a law which was fair to both debtor and creditor; it should not be a one-sided law.

The committee reports this year along the same lines. We have, during the year, kept in touch with committees of both houses of Congress and with the department of the United States Attorney-General's office which has had charge of bankruptcy matters, and we have watched the course of legislation and have tried to guide it along the lines which the

Association last year recommended. The Ray Bill is now pending before Congress, and we have formally approved of that bill as a committee, and we now ask the Association to approve it. It makes a cleaner bankruptcy law. It makes the bankruptcy law more worthy to become a permanent part of American jurisprudence.

We have recommended some other amendments not immaterial, but not crucial, which you will find in our report.

The main thing, however, which our committee has done during the past year is to consider the question of the involuntary part of the bankruptcy law. We have thought that it should be a law not simply for the debtor, but for the creditor and the debtor; that it should not be a one-sided law; that it should be a creditor and debtor law. That while it afforded an abundant remedy for the unfortunate debtor to be released from the incubus of his debts, it should also afford some remedy by which the creditor might lay his hand upon the reckless or improvident or fraudulent debtor in time, if possible, to save some part of his debt. We have formulated amendments to the involuntary part of the bankruptcy law looking to the accomplishment of this result. Among other things, we propose to increase the acts of bankruptcy. The present acts of bankruptcy provide no way for a creditor to reach recklessness, fraud or improvidence on the part of the debtor soon enough to do any good. You have read the amendments proposed in our report. They are substantially to the effect that where a debtor is found to be wasting his assets by gambling—whether that gambling takes place at the roulette wheel or on Wall street, State street or Chestnut street—where he is recklessly managing the property which is needed to pay his debts, the creditor may come forward, and say, “You may waste your own substance as much as you please, but you shall not be allowed without limit to waste mine.”

We have appreciated the difficulties in the way of such provisions. It is by no means an easy matter to frame amendments which will cover the principle and enforce the remedy which

we are seeking, but we have tried to do so, and in the discussion, if any takes place, on the bill to-day, I ask you not to make it a mere verbal discussion, that is, not to criticise the bill along merely verbal lines, for we are not wedded by any means to the words we have employed in any of the amendments which we seek to have adopted, but we ask that this Association support us in the position that the bankruptcy law shall be a creditor's law, as well as a debtor's law; that it shall furnish remedies to the creditor as well as to the debtor; that it shall enable a man to collect his debt which the debtor is trying to evade, as well as enable a debtor to avoid paying a debt he doesn't wish to pay. We believe that this is the only way in which the bankruptcy law can become a permanent part of American jurisprudence. We believe you must make it a law which the creditor will accept as well as the debtor. Really the whole thing is for the debtor's benefit, because the more you extend and make secure the system of credits, the more the debtor can get credit. If you strike at the credit system, you are striking at the debtor more than you are at the creditor. If you do anything to impair that system, you are making the debtor suffer more than the creditor. The creditor may lose his profits or his interest, but the debtor loses his business. And we ask this Association to support us in asking of Congress that it make the bankruptcy law a law which instead of impairing credits, will make credits more secure; a law which, instead of being an incubus upon trade and commerce, will be a law upon which the trade and commerce of the nation can be built up and extended.

I think you are all familiar with the report that we have made, and I ask leave to introduce the following resolution in order that the subject may be before the Association:

First.—That the report of the committee be received and adopted.

Second.—That the committee be instructed to urge upon Congress the amendment of the bankruptcy law on the lines suggested in their report.

Third.—That the committee continue its study of the scope and operation of the law, and make a further report thereon, with such recommendations as seem to them expedient, at the next meeting of the Association.

I repeat that the committee do not wish to be confined to the precise language that is used in any of their proposed amendments. We ask you to support the committee and to adopt these resolutions if you believe with us that it is possible to amend the bankruptcy law along these lines, so that it shall be a law which protects the creditor as well as relieves the debtor—a law upon which you can base the credit system of the nation rather than a law which shall destroy or impair credits.

We do not believe in the year of jubilee which has been proposed by one amendment that has been introduced in the House of Representatives. That one year in five the bankruptcy law shall have effect. But we believe with the framers of the constitution, that a bankruptcy law is beneficial legislation and should be a permanent part of the Nation's jurisprudence; but we must make it a law clean, just and fair; a law which protects the creditor as well as relieves the debtor.

We have with us today, Mr. Brandenburg, from the office of the Attorney-General of the United States, who represents the Department of Justice. He has had charge of bankruptcy matters as far as the Attorney General's office is concerned. We have also with us a number of Referees in Bankruptcy, and I hope they may have something to say upon this subject, and for that purpose I ask that they be entitled to the privileges of the floor and to be invited to take part in this discussion if they wish to do so.

E. F. Bullard, of New York :

I make the motion that Mr. Brandenburg be invited to address the Association upon this subject.

The President :

The question is on the motion of the Chairman of the committee that the report of the committee be received and

adopted, that the committee be instructed to urge upon Congress an amendment of the law upon the lines suggested, and that the committee continue the study of the question and report at the next meeting of the Association. And, pending this question, unanimous consent is asked, as I understand it, that the gentleman whose name has been mentioned be permitted to address the Association. It will require unanimous consent, because to admit these gentlemen to speaking privileges upon the floor cannot be granted them, nor the rights of membership in the Association be given them, under the by-laws. The only persons thus privileged are those especially invited to deliver addresses, those who are here as members of the Association, and those who are here in a representative capacity as delegates from state and district bar associations.

Is there objection to hearing Mr. Brandenburg, of the Attorney-General's Department? The Chairman hears none and the Association will be pleased to hear from him.

E. C. Brandenburg, of the District of Columbia:

Gentlemen of the American Bar Association: In the last annual report of the practical operation of the Federal bankruptcy law, which I had the honor to make to the Attorney-General, I took the liberty of incorporating certain of your resolutions, together with others, commendatory of the law, as expressive of the views of the greatest legal association in existence, in the belief that they would of necessity aid Congress in legislating upon the subject of bankruptcy. This led to a correspondence with the learned chairman of your Committee on Commercial Law, who has now invited me to present some views on the subject.

I desire to preface my remarks with the statement that anything coming from me today is not necessarily the views of the judicial department of our government with which I am connected, but my individual views, gained from a careful study of the various features of the law of bankruptcy in the preparation of several works on the subject, in addition to my connection with the work at Washington.

In this day of steam and electricity, which have annihilated distance and brought San Francisco and New Orleans to our door, when the lawyer of New York is frequently required to give immediate advice to a client in California concerning rights under the laws of a distant state, the necessity for uniformity in laws on general subjects has long been felt and continues to grow. We are demanding of the states uniform laws with reference to negotiable instruments, uniform laws with reference to divorces and so on, but the states are jealous of their rights, and the road of the advocate of uniformity is rough and rugged. It was only after years of earnest appeal and demand upon Congress, that it exercised its constitutional right and enacted the present law, which, while far from being perfect, is a vast improvement over any previous enactment on the subject, and over no law at all.

As sustaining the views of your committee in favor of a Federal law on the subject of bankruptcy, it may not go amiss to analyze some of the criticisms with which we come in contact. In the first place, no law of so wide an application was ever placed upon a statute book that did not require amendment and revision for its perfection, and this law is no exception to the rule. It may well be likened to the construction of one of our great men-of-war. The best mechanics, engineers and constructors the government can command, exercise every possible skill for months in the preparation of the plans and specifications, and still, when these great leviathans of the deep finally leave the stays, preparatory to their mission of peace or war, imperfections and bad adjustments are discovered, requiring alteration and correction. In the same sense but to a greater degree will the practical operation of a law demonstrate its imperfections. The best friends of the bankruptcy law admit that it must be amended in many particulars.

An objection frequently, though I fear thoughtlessly raised, to the existence of a Federal bankruptcy law, is that it enables an insolvent to obtain a discharge from his obligations,

and therefore is not wise legislation. As a fact, would not the repeal of the law relegate us to the state insolvent or assignment laws—systems varying with the number of states, though founded upon the same principle as the Federal law of relieving the unfortunate debtor of his obligations upon surrendering his property, with almost the single exception that the release or discharge under the state insolvent or assignment law is limited to the particular state, while under the Federal law it is co-extensive with the limits of the United States, and possibly to our newly acquired possessions, though upon this latter point there seems to be some difference of opinion.

The question of exemptions allowed under the law is frequently cited as an evidence of its weakness. Such critics need merely to be reminded that Congress, in adopting the state statutes on this subject, has wisely deferred to the views and judgment of the legislatures of the several states, and if the amount of such exemptions seems to work a hardship to your creditor client, relief must be sought at the hands of your legislators. Again, the question is asked whether your client would fare better in the absence of the Federal law, and again comes the reply, that prior to its enactment, the debtor making an assignment or becoming insolvent, had set apart identically the same exemption as under the Federal law.

While the recommendations of your committee are excellent, I will go a step further, and urge that where a man has once demonstrated his inability as a business man and has taken advantage of the law, and makes two or more applications for relief, he should be deemed unworthy of the same consideration as in the case of one who files a single petition, and in such case, I urge that his assets should bear a certain ratio to his liabilities, say 50 per cent. on the second application, 75 per cent. on the third, and so on, thus removing the incentive of the dishonest man to repeated commercial adventures which finally result in the defrauding of his creditors.

I have earnestly advocated strengthening and extending the grounds of objections to a discharge, and believe that if Congress will make criminal offenses of the obtaining of property by an insolvent debtor through fraud or false representation of his financial standing, or of the fraudulent conveyance of property or its concealment—not, as now, merely grounds of objection to a discharge;—and as crimes make them punishable, it will do much to prevent that fraud which is so apt to bring the law into disrepute. The fact that property illegally conveyed or concealed may be recovered if discovered, will not prevent the dishonest man from endeavoring to enrich himself at the expense of his creditors, but if, upon discovery, a term in prison is presented as a punishment for his dishonesty, it will act as a deterrent in a manner which cannot otherwise be accomplished.

While there are other particulars in which the law should be amended, there are two recommended by your committee to which I desire briefly to refer. The first is that with reference to the question of the fees for administering the law. From the silence of the marshal and clerk, I judge them to be amply compensated, but the same is not true of the referee and trustee. The former requires judicial ability and learning, the latter business tact and often peculiar knowledge, while both must be men of unquestioned character and sound judgment. Many of the cases are without assets, and with the ruling of some of the courts, which I consider unsound, that on secured claims these officers are not entitled to commissions, the fee of \$10 and \$5, respectively, is altogether out of proportion to the services required. "A laborer is worthy of his hire," and it is peculiarly true in this instance, if we want a fair and unbiased administration of the law.

The second amendment suggested by your committee, which I desire most heartily to support, is that with reference to section 57g of the law, which the weight of authority interprets as requiring a creditor who has received payment on account within four months, whether with guilty knowledge or

not, to surrender the same before he can prove his claim for the residue of the account. I am again in the minority upon this point, and believe that those courts err, which have held that where payment has been received without guilt on the part of the creditor or knowledge of the debtor's insolvency, they should be entitled to prove their claims for the residue of their accounts without surrendering such so-called preferences. Any other interpretation must of necessity unsettle business and do much to defeat the avowed purpose of the lawmakers.

The importance of a Federal bankruptcy law cannot be questioned. You are therefore to be congratulated that your committee has given such careful attention to the subject and so lucidly presented the matter for your consideration, as I am firmly convinced that the law has come to stay. The lawyer who has a commercial practice, must of necessity familiarize himself with its provisions, and should exert himself to see that it is perfected. You may refuse to file a voluntary petition in bankruptcy and send the applicant to other counsel, but if you have clients, be they corporations, partnerships or individuals, they have business dealings with others who may become bankrupt, or who may make conveyances, or suffer preferences, in which such clients need protection and advice. As I recently had occasion, in a lecture at the Columbian University, in response to the statement of a member of the class that he did not expect to take bankruptcy business, to urge a careful consideration and study of the law, for the reasons just stated, with equal propriety I may now be permitted to say that as practicing lawyers and students of law, you should interest yourselves in its provisions to the end that the great influence you exert shall be felt in remedying its defects and strengthening its weaknesses. As emphasizing the necessity for this and to give you an idea of the magnitude of the business under this law, it is only necessary to say that in the year ending September 30th, 1899, about 21,000 petitions for voluntary, and in the neighborhood of 1000 petitions for involuntary, bankruptcy were filed, this being considerably

more than twice the number of civil suits of other character brought in the Federal courts during the same period. The great diversity between voluntary and involuntary cases may be attributed to the present era of business prosperity and the further fact that a large proportion of the former are cases of old insolvents against whom judgments have been kept alive in the faint hope that in some unknown way they might be paid.

While, with hardly an exception, I most heartily concur in the suggested amendments to the Federal bankruptcy law as set forth in the able report of your committee, time forbids any extended discussion of the various amendments, but the position taken by the report that the involuntary features of the law need strengthening, is one that every thinking man should support. Upon this point it may not be amiss to repeat what I had occasion to present some months since to the Association of Creditmen of New York City, composed of men who, perhaps more than all others, are vitally interested in this matter, and which met with their unqualified approval.

“Any bankruptcy law, to be successful, must be just, and a system in which the interests of the debtor have been so carefully preserved and guarded, that the interests of the creditor have almost been forgotten, is not such a law as will meet the demand of the creditor class, who, after all, are the brain and brawn of the commercial world. It is they who furnish the means that give employment to the idle. They build the factories and start the machinery in motion. Accordingly they are to be considered as well as the debtors.”

Let us therefore, as suggested by your committee, do all in our power to perfect the present law, and instead of aiding the dishonest debtor to defraud his creditors, let us place every possible obstacle in his way. He is entitled to no consideration at our hands and should receive none. The moment, however, the bankrupt comes into court with clean hands, and indicates a willingness to deal honestly with his creditors, then should he receive consideration in accordance with that wise and humane policy underlying a true bankruptcy law, and be

discharged from his past obligations and given an opportunity to start his business life anew.

John Morris, Jr., of Indiana:

I move as an amendment that the committee be instructed to urge upon Congress the amendments to the present bankruptcy law proposed by it, except that, for the amendment 57g suggested by the National Association of Referees in Bankruptcy, there shall be substituted the following:

57g. Creditors who have received preferences shall not participate in dividends so as to receive, by taking such preferences into consideration, a greater percentage of their claims than other creditors of the same class.

I would like to say briefly that bankruptcy laws are framed upon the principle that equality among creditors is equity, and I believe that the present law provides the means for securing a better application of that principle than any law that we have heretofore had. This law defines a preference as being, among other things, a transfer of property by an insolvent debtor whereby one of his creditors receives a greater percentage of his claim than other creditors of the same class. It does not make a preference depend upon the knowledge or intention of either the debtor or the creditor. In this respect the law differs from all previous laws we have had upon this subject. Section 60b of the act provides that preferences may be avoided by the trustee when the creditor had reason to believe that a preference was intended to be given. This, while a wise provision, is practically of little effect. It is provided by section 57g that the claims of creditors who have received preferences shall not be allowed unless such creditors shall surrender their preferences. The object of that section is to secure an equal distribution of the bankrupt's estate; not the estate as it exists on the day of the adjudication, but the estate as it was at the time the insolvent's condition became such that he could be declared a bankrupt, which the law has fixed as any time within four months prior to the adjudication. Now, if creditors who have

received preferences shall, by taking such preferences into consideration, share equally with all other creditors in the distribution of the bankrupt's estate, the law will have accomplished its purpose. It is a little unfair that such creditors should, in all cases, have to surrender what they have received, but if what they have received by way of preference is taken into consideration in making dividends, the law accomplishes its purpose and the reasoning in such cases as *Columbus Electric Co. vs. Worden* is fully sustained.

Walter S. Logan:

I do not think that that amendment is necessary. The committee has only proposed that legislation shall be along those lines, and I think that the gentleman's amendment and the amendment proposed by the committee are along the same lines, although differing somewhat in their phraseology and effect. I do not think we are a deliberative convention where we can decide between the merits of the two proposed amendments. I hope the Association will adopt the report and resolutions as proposed, which give the committee abundant leeway to change the phraseology of any of those amendments.

The President:

Is there a second to the amendment?

Frederick F. Haskell, of Massachusetts:

I second it.

E. F. Bullard, of New York:

I think it would be better to leave the matter to the committee, to be dealt with in their final consideration.

The President:

Pending the motion to adopt the report it is moved that this clause in section 13 shall be stricken out and the amendment made by Mr. Morris inserted. Is the Association ready for the question on the amendment?

Robert S. Taylor, of Indiana:

I concur in the amendment proposed. I think it is an improvement upon the provision recommended by the com-

mittee ; and if our approval of the report is to be construed as giving a direction to the committee, then as between these two provisions, I should heartily support the amendment. But as the chairman of the committee states it, he seems to ask from the Association an endorsement of the report which shall not be construed as an instruction on the subject.

Walter S. Logan :

Not an instruction as to any particular form.

Robert S. Taylor :

This is a question of substance as to whether a creditor who has received a preference shall be compelled to surrender that preference before he shall receive any dividend, or whether his dividend shall be limited to the amount which he will receive on his claim, including his preference. The difference is not one of form at all ; it is a difference of substance, as I take it. Upon the merits of the question I concur in the amendment proposed.

William H. Hotchkiss, of New York :

I would like to move an amendment, that this proposed amendment to the report of the committee be referred to the committee with power, so that they can take it up.

Amasa M. Eaton, of Rhode Island :

I second that amendment.

The President :

The Chair thinks it can hardly entertain that amendment. The present attitude of the question is that this report be amended, which is in the form of an instruction to the committee by the Association. So it would hardly be parliamentary, as the Chair thinks, to refer an instruction to the committee. It would permit the committee to usurp the power of the Association.

Godfrey Morse, of Massachusetts :

I consider the amendment offered by the gentleman from Indiana of a great deal of importance, but I am hardly prepared to vote intelligently upon it at this time. The report of

the committee which is before us has been sent to all members of the Association, and with it we are all familiar; with the amendment, or its bearing, we are not. I think a better mode of procedure would be to accept the report of the committee as it has been submitted. The committee has stated through its chairman that they do not consider the adoption of their report as a literal instruction as to their duties. If the report is accepted, I would suggest to the gentleman who has offered the amendment, that he withdraw it and offer a motion embodying his amendment, and let that motion be referred to the committee for consideration. That will give the report the full effect of being received by this Association, and will give the committee an opportunity of discussing the amendment and making such recommendations concerning it as they may think wise.

John Morris, Jr., of Indiana:

The committee recommends practically that section 57g and all the legislation we have had on the subject, be abolished, because it recommends that the law be changed to just what was in the law of 1857. It also practically abolishes section 60a, which defines preferences. Congress has spent a great deal of time over the question of what shall be a preference, and they practically omitted from the definition of the term anything which would make it depend upon knowledge.

H. G. Newton, of Connecticut:

I suggest that the amendment, if passed, will not be binding in its words any more than the rest of the resolution. I understand they are all subject to an amendment by the committee, and if this is passed, it would stand just as all the rest of it—liable to be amended. I believe we are all agreed that the substance of it ought to be adopted and that the committee has the right to change the form of it.

Francis Forbes, of New York:

It seems to me that the Association should stop and consider a moment as to the effect of adopting a resolution on the

statement of the Chairman which does not go into the record, the statement of the Chairman in regard to the wording of the report. Let us modify the resolution in any way we desire. If we do modify it, let us include within it the statement of the Chairman that the language of the recommendation is not adopted by this Association, but rather the general idea is attempted to be expressed.

William A. Ketcham, of Indiana:

I am very loath to interfere in anywise with the work of the committee that has carefully considered this matter; but, while feeling so, it does seem to me that the language of this proposed amendment, "Creditors who have received preferences shall not participate in dividends so as to receive, by taking such preferences into consideration, a greater percentage of their claims than other creditors of the same class," identically and carefully presents the idea that ought to control with reference to the consideration of preferences. In a law where language may be used that exactly expresses the idea that is sought to be embodied in the law, I have thought that, at the risk of changing the report of the committee, we can, to advantage, make a modification. The class of creditors who have received preferences voidable under section 60b are subject to the provision that this clause shall not be allowed unless such creditors shall surrender their preferences. If they give us identically the same class of cases, I think the language in the proposed amendment is more apt, and more specifically states what is to be accomplished than the other, and if they do not cover identically the same class of cases, then I think the language of the amendment provides what ought to be the rule on that subject. I hope the amendment will prevail.

The President:

The question is on the proposed amendment to the report.

Walter S. Logan:

May I say one word more?

The President :

You may say one word, but the Chair calls the attention of the gentleman to the fact that under the rules no speaker can occupy the floor more than twice on the same subject and the gentleman has already spoken twice.

Walter S. Logan :

All I wish to say is that it seems to me that the amendment is going back to the evils of the present bill. The proposal of the committee provides fully for all cases where there is fraud on the part of the creditor; but where he has honestly received a payment on account, it seems to me he ought to be allowed to keep it without any penalties being imposed on him.

The President :

The question is on the amendment to the report.

The amendment to the report was adopted by a vote of 23 ayes to 20 noes.

The President :

The question now recurs to the three resolutions offered by Mr. Logan as Chairman of the committee.

The resolutions were adopted.

The President :

The next order of business is the report of the Committee on International Law.

Henry St. George Tucker, of Virginia :

This report, in the absence of the Chairman of the committee, has been forwarded to me. It is signed by all the members of the committee except the Hon. Benjamin Harrison and Prof. John Bassett Moore. I present with the report a letter from ex-President Harrison approving the report. I am unable to find Mr. Moore.

The report of the Committee on International Law was then read by Henry St. George Tucker.

The President:

The report is received and will be ordered placed on file; the question is on the adoption of the resolution as read.

The resolution was adopted.

(See the Report in the Appendix.)

The President:

The next business in order is the report of the Committee on Grievances. I do not suppose there are any grievances.

Next in order is the report of the Committee on Obituaries.

The report of the Committee on Obituaries was read by the Secretary, as Chairman of the committee.

The President:

The report of the committee will be received, and in the next volume of the transactions of the Association the usual notices will be prepared by the committee and inserted.

(See the Report in the Appendix.)

The President:

Next is the Committee on Law Reporting and Digesting. Is that committee ready to report? Is there any member of that committee present? If not, it will be passed.

Next is the Committee on Patent, Trade-Mark and Copyright Law.

Frederick P. Fish, of Massachusetts:

The report of the committee is in print and in the hands of the members of the Association. It deals only with the proper legislation affecting the trade-mark law. The bill agreed upon by the committee is reprinted in the report, having been changed from that already approved by the Association only in details which do not affect the principle of the legislation asked for. Nothing can profitably be done with the bill until the Commission appointed by Congress to deal with the same subject matter is prepared to make its report. When that report is made, your committee proposes to co-operate with the Commission to secure, if possible, such legislation as has approved itself to the American Bar Association.

The resolution which the committee asks for is :

“That the committee be authorized to continue its efforts to secure the much-needed revision of the trade-mark laws of the United States on the lines of the bill herewith submitted, and to co-operate with the Commission appointed under the act of Congress, with the view of obtaining as far as possible the incorporation into the bill to be prepared by the Commission of the provision to which the Association has given its assent.”

The President :

The report will be placed on file. The question is on the adoption of the report and the resolution therein contained.

The report and resolution were adopted.

(See the Report in the Appendix.)

Ferdinand Shack, of New York :

I have to offer a short report from the Special Committee on Title to Real Estate, and trust we may obtain unanimous consent to present it at this time.

The President :

Is there any objection? If not, the gentleman from New York may present the report, unanimous consent having been granted for that purpose.

The report of the Committee on Title to Real Estate was read by Ferdinand Shack, together with a memorial and a resolution pertaining thereto.

The resolution reads as follows :

Resolved: That the Committee on Title to Real Estate be authorized to confer with officers of the Government and formulate and advocate legislation to prevent the hardships referred to in the memorial, in addition to the powers already conferred upon the committee.

The President :

The report being received will be printed and placed on file. The question is on the adoption of the report and the resolution.

The report and resolution were adopted.

(See the Report in the Appendix.)

Francis Forbes, of New York :

Mr. President, I have a two-minute report to make from the Committee on Industrial Property and International Negotiation. If I may have unanimous consent to present it at this time, I will read it.

The President :

Is there objection to hearing this report at this time? The Chair hears none and it may be received.

The report of the Committee on Industrial Property and International Negotiation was read by Francis Forbes.

The President :

The report being received, the question is on its adoption.

The report was adopted.

(See the Report in the Appendix.)

Francis Forbes :

I move that the committee be continued, with instructions to report at the next annual meeting.

Albert H. Walker, of New York :

I second that motion.

The motion was adopted.

A recess was then taken till 8 o'clock P. M.

EVENING SESSION.

Thursday, August 30, 1900, 8 P. M.

The President called the meeting to order.

Additional new members were then elected.

(See List of New Members.)

The President :

The paper that is to be read this evening is entitled "One Hundred Years of American Diplomacy," and it affords me

very great pleasure to introduce to you a gentleman renowned in diplomatic circles, an expert upon international law, well known by reputation to all of us, Prof. John Bassett Moore, of New York.

John Bassett Moore, of New York, then read his paper.

(See the Appendix.)

The President :

There are two standing committees that did not report this morning. The Chair calls upon the Standing Committee on Law Reporting and Digesting. If a member of that committee is present and ready to report, the Association will be glad to hear from him.

As it appears that no member of the committee is present the report will be passed until to-morrow morning.

The report of the Committee on Legal Education and Admission to the Bar is next. Is that committee ready to report?

The Secretary :

I understand from the Chairman of that committee that there will be no report from it this year.

The President :

Several special committees reported this morning by unanimous consent, and the Chair will now call upon the others. The first is the Special Committee on Classification of the Law.

Edward A. Harriman, of Illinois :

That committee has had no meeting this year, Mr. President, and therefore there is no report to make.

The President :

The Special Committee on Indian Legislation. I understand from the Secretary there is a printed report from that committee. Is there any member of it present? If not, as the report is a brief one, I will call upon the Secretary to read it.

The report of the Special Committee on Indian Legislation was then read by the Secretary.

The President:

What is the pleasure of the Association with reference to this report?

Hiram F. Stevens, of Minnesota:

In the absence of the Chairman of the committee, who is my townsman, and the other members of the committee, and in view of the fact that this subject has been very fully considered by the Association, I move the adoption of the report.

Wm. P. Breen, of Indiana:

I second that motion.

The President:

The passage of this motion will include, of course, the adoption of the resolutions appended to the report.

The motion was adopted.

(See the Report in the Appendix.)

The President:

The Committee on Uniform Laws is next in order.

The report of the Committee on Uniform Laws was then read by the Chairman of the committee, Lyman D. Brewster, of Connecticut.

(See the Report in the Appendix.)

Amasa M. Eaton, of Rhode Island:

I move that the report be adopted.

J. T. Maffett, of Pennsylvania:

I second that motion.

The motion was adopted.

Amasa M. Eaton, of Rhode Island:

In connection with this I offer the following resolution:

Resolved, That Article III of the Constitution be amended by adding to the committees therein enumerated the Committee on Uniform State Laws.

This is in accordance with the recommendation of that committee. The committee at the present time is not one of the standing committees, and it is deemed advisable that it

should be. It is one of the objects of our Association as expressed in our Constitution, and it is of such vast importance that certainly this committee should be one of the standing committees of the Association.

The Secretary :

In order to do that, the By-Laws would have to be amended also, because there is a list of committees on the first page of the By-Laws.

The President :

That can be done by separate motion, because a different vote must be had on that question.

The Chair begs leave to call attention to the fact that all standing committees are composed of five members each, and that is because of a provision of the Constitution. The Committee on Uniform State Laws is composed of 46 members. Therefore it will be necessary if this is to be made a standing committee, either that the committee shall be reduced to five members, or else that there should be a change in that article of the Constitution.

Albert H. Walker, of New York :

May I ask, Mr. President, what is the practical difference between a standing committee and a special committee?

The President :

The Chair knows of none, because all the privileges of a special committee, so far as its meetings and appropriations from the treasury are concerned, are the same.

Albert H. Walker :

That being the case, I suggest that it would be better to continue those gentlemen who have charge of this subject as a special committee rather than to transform them into a standing committee, in order that the number may continue as at present.

Amasa M. Eaton, of Rhode Island :

Then I suggest, Mr. President, that my motion lie over until next year in order that it may receive due consideration.

The President :

That will be done, and the motion made by the gentleman from Rhode Island will lie upon the table until the next meeting.

The next special committee is the Committee on Federal Code of Criminal Procedure.

The Secretary :

There is no report from that committee.

The President :

The Committee on Penal Laws and Prison Discipline. Is there a report from that committee.

The report of the Committee on Penal Laws and Prison Discipline was then read by J. Franklin Fort, of New Jersey.

The President :

The report will be received, ordered printed and filed.

(See the Report in the Appendix.)

Martin Dewey Follett, of Ohio :

Allow me to move, Mr. President, that the committee be continued.

Henry E. Davis, of the District of Columbia :

I second that motion.

The motion was adopted.

Martin Dewey Follett :

One other matter, if you please, Mr. President. While we were in Europe, we found this fact to be true,—that we desired that the influence and investigation of this body should also carry some of its influence in regard to the International Prison Congress which meets once in five years; the one of this year is the sixth, the next one meets five years hence in Hungary, and the next, as we hope, ten years hence in the United States. Hence I have prepared this resolution :

Resolved, That it is desirable that the American Bar Association be represented in the International Prison Congress to be hereafter held, and that the Committee on Penal Laws and Prison Discipline be requested to present proper changes in the

Constitution and By-Laws to provide for the same, and report at the next session of this Association, one year hence.

Frederic P. Haskell, of Massachusetts :

I second that resolution.

The resolution was adopted.

The President :

The next committee is that on Federal Courts. Is that committee ready to report ?

Edmund Wetmore, of New York :

Mr. President, just prior to the last meeting of the Association, a Commission appointed by Congress, consisting of Messrs. Botkin, Watson and Culberson, had its duty extended so that it was charged to revise and codify the whole body of statutes relating to the courts of the United States and their procedure. They had then made a preliminary report in which, in consequence of the efforts of the Committee on Federal Courts of this body, they had included nearly, but not quite all, the amendments which had received the approval of this Association. The Committee on Federal Courts was thereupon, at the last meeting of the Association, charged to co-operate with the Congressional Commission and obtain, if possible, the adoption by them of all the measures which have been approved by this Association. Shortly after that, the preliminary report referred to was sent to the Judiciary Committee of the Senate. No steps can be taken until that report, which is in the form of a revision of the whole body of the statutes, shall have received the consideration of the Judiciary Committee of the Senate. We therefore endeavored to obtain a hearing before that committee, and considerable correspondence took place and personal efforts were exerted to that end. We obtained an appointment for a hearing, not only for ourselves, but for all who were interested in the subject. Senator Hoar, the Chairman of the committee, subsequently informed us, however, that it was impossible to give us a hearing during the session just passed, and he has also informed us that it will be impossible to get a hearing at the coming short session of Congress.

Under those circumstances, therefore, the committee direct me to ask that it be continued under the same direction to continue its efforts to obtain the passage of the changes and amendments which have received the sanction of this Association. These are all embodied in the general revision proposed. In addition to that, a bill, as we are informed, may be introduced at the next session of Congress, increasing the salaries of the Federal judiciary. The report on Federal courts recommended that, but it was withdrawn because it was not deemed expedient to join that amendment with the general bill proposing the other changes. It was withdrawn with the statement—which also met with the approval of the Association—that it should be recommended, if any opportunity arose, as a separate measure. That opportunity has now seemed to come, and therefore on behalf of the committee I will ask for the adoption of this motion :

Resolved, That the committee be continued with power to obtain as far as possible the passage of the proposed changes in the laws relating to Federal courts and procedure which obtained the approval of the Association, and also that the committee be authorized to promote the passage of an act for an increase in the salaries of the Federal judiciary.

Frederick P. Fish, of Massachusetts :

I second the motion.

The President :

The Chair will state that it is informed by the Secretary that the practice has been to continue these special committees until by vote of the Association they are discharged from the performance of their duty. In all instances, therefore, special committees will be continued unless the Association by vote concludes to dispense with their further services.

The question is now on the motion of the gentleman from New York, that the committee be continued with power as stated.

The resolution was adopted.

The President :

The next special committee is the Committee on Appeals from Orders Appointing Receivers.

A. J. McCrary, of Iowa :

Mr. President : In presenting this report, a word of explanation is necessary. The members of the Association will remember that the United States Circuit Courts of Appeals were created by an act passed in 1891. In the original bill there was no provision whereby an appeal could be taken from an interlocutory order, but only the general appeal at the end of the case. Subsequently, an amendment was passed granting the right of appeal from orders allowing injunctions, and again, in 1895, an amendment was passed allowing appeals from the refusal to grant injunctions. Neither in the original bill nor in either of these amendments, was there any right of appeal from orders appointing receivers or refusing their appointment. The appointment of this special committee was for the purpose of procuring legislation permitting appeals from interlocutory orders for the appointment of receivers or the refusal. At the Congress previous to the last, as a member of our committee, I went before that body and, on presentation of the subject to the Judiciary Committee of the House, I was granted the privilege of preparing a bill, which I did with great care, amending the sixth and seventh sections, providing for appeals from orders allowing injunction, orders refusing injunction, orders appointing receivers and refusing to appoint receivers. That bill was opposed—or, at least, was treated with some little doubt in the Senate Committee. It passed the House committee and was reported by the House committee. It was not heartily favored in the Senate committee, and for some reason—probably the outbreak of the war was the main cause—was not acted upon at all. This special committee went, therefore, before the last Congress. We all appeared there; Hon. Walter B. Hill, of Georgia, being the Chairman, and Robert D. Benedict, of New York, and myself being the other members of the committee.

When we appeared at Washington we were informed that a bill had been introduced by Mr. Bradley, of Georgia, a member of Congress and also a member of this Association, and that it had been referred to the Judiciary Committee and by them referred to a special committee, and that the special committee had approved it and it would be passed by the House. We then went before the Senate committee and had an informal hearing, and a special committee was appointed there for the consideration of the matter and it received favorable consideration. In all this time the bill itself was never in the hands of the committee and so far as I personally am concerned, I supposed it was a reenactment of the bill that had once passed the House, which I had prepared myself. Upon coming here, I received from the Secretary the report of our Chairman, Mr. Hill, with a request from Mr. Hill to present it, with a copy of the bill which had passed in the very late hours of the Congress just adjourned, and which has received the signature of the President. That bill is something of a disappointment. It amends only the seventh section of the law and it also has a provision that practically repeals that which had been accomplished by our former amendment. I will read Mr. Hill's report, and withdraw the latter clause of it, as I am the only member of the committee present. In conversation with the Committee on Federal Courts they have asked us to continue in our work in connection with them in securing complete relief from the granting and refusing interlocutory orders, and the right of appeal from such orders.

The report and bill were then read.

William A. Ketcham, of Indiana:

I move that the report be received and that the matter be recommitted to the committee with instructions to endeavor to procure legislation authorizing an appeal to the United States Circuit Court of Appeals on matters of injunction and of the appointment of receivers, not only in cases where upon final decree the appeal will be to the Circuit Court of Appeals,

but also in all cases where upon the final decree the appeal will be to the Supreme Court of the United States.

J. Franklin Fort, of New Jersey :

I second that motion.

• William A. Ketcham :

Permit me to say that as the law now is, a district judge or a circuit judge sitting alone in a matter involving the constitutionality of a law, may grant an injunction, appoint a receiver or make drastic orders from which there is no relief whatever, except at the end of an appeal in the Supreme Court of the United States, which may last from a year and a half to four years. Now if a district judge may be presumed to know enough constitutional law to grant an injunction or to refuse one, to appoint a receiver or to refuse to appoint one, it ought to be presumed that the Circuit Court of Appeals knows enough constitutional law to revise the action of the one district judge in granting or refusing a receiver or an injunction, and if it is right and fair, in a proceeding that may not be of so much importance, because a constitutional question is not involved and the appeal must be taken directly to the Circuit Court of Appeals, that a right of appeal shall be given, *a fortiori* is it right that an appeal should be allowed in more important cases where a constitutional question is pending and there can be no appeal from an interlocutory order to the Supreme Court of the United States?

I think, therefore, that great injustice may be done by discriminating against the more important cases in giving the right of appeal and allowing the right of appeal to the less important cases that can go to the Circuit Court of Appeals.

The President :

The Chair suggests that it is so evident that this report has been made under a misapprehension of the Act of Congress, that it certainly would be injurious that it should appear in the printed volume of our transactions, because it would look as though the Association had accomplished that which it

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sought to bring about. The Chair asks whether it would not be more advisable to withdraw this report and simply continue the committee to carry out the ideas of the Association.

William A. Ketcham :

I desire that in some manner this committee should not confine itself to providing for a supervisory jurisdiction in cases of lesser importance, but also include the cases of the greater importance, because we all know that it is desirable to repeal the one-man power in judges.

A. J. McCrary, of Iowa :

The bill provided at the former session of Congress covers all these points, and I had not dreamed, until I saw this bill, that the former was not the bill that was being acted upon by Congress.

The President :

The Chair would ask Mr. McCrary whether he does not think the suggestion made by the Chair is the best to be pursued under the circumstances ?

A. J. McCrary :

I do think so. I am the only member of the committee present, however.

William Wirt Howe, of Louisiana :

I move that the report be recommitted to this special committee with instructions to the committee to endeavor to carry out the views which have been so frequently expressed by the action of this Association, in bringing about the legislation suggested by the gentleman from Indiana.

Hiram F. Stevens, of Minnesota :

I would amend that motion by saying that the committee be asked to co-operate with the Committee on Federal Courts in the matter, so that there may be uniform action.

William Wirt Howe :

I accept that amendment.

Hiram F. Stevens :

Then I second the motion.

The motion was adopted and the report recommitted.

Henry E. Davis, of the District of Columbia :

Mr. President: I desire to call the attention of the Association, very briefly, to the report of the Committee on "John Marshall Day" that was submitted this morning, and, after consultation with the chairman of that committee, I wish to offer a resolution which I hope may be adopted. The project of the celebration in the City of Washington, as stated in the report, involves the presence of the President of the United States and his Cabinet, of the Chief Justice of the Supreme Court of the United States and his Associates, and of other public functionaries, and it will take on something of a national character. To that end, it is desired to secure the use of the hall of the House of Representatives, and in order to do that, of course a resolution of that body is necessary, and it will also be necessary to have a joint resolution of Congress in order to a participation by that body, as a body, in the exercises. It has occurred to us who represent the Bar Association of the District of Columbia, which has already provided for the appointment of a committee to take this matter in charge, that we will come before Congress with very much greater force if we are backed by a resolution of this Association, instead of by the mere representation of one of its committees. As is well known, the coming session of Congress will be a short one, and there will be a great stress of public business and we will be at some difficulty perhaps in securing the hall of the House of Representatives for even the short time required. This is the resolution :

Resolved, That this Association approves and adopts the report of its Committee on "John Marshall Day," February 4, 1901, and respectfully requests the Congress of the United States to take appropriate action in furtherance and aid of the observance of that day at the National Capital in the manner proposed in and by the said report.

R. C. Ostrander, of Michigan :

I second the adoption of that resolution.

The resolution was adopted.

The Association then adjourned until Friday morning, August 31, at 10.30 o'clock.

THIRD DAY.

Friday, August 31, 1900, 10.30 A. M.

The President called the meeting to order.

The President :

The first business this morning is the nomination of officers. The Chair recognizes Mr. Stevens, of Minnesota, Chairman of the General Council.

Hiram F. Stevens :

I am directed by the General Council to present the following names for officers of the Association for the ensuing year :

For President, Edmund Wetmore, of New York.

For Secretary, John Hinkley, of Maryland.

For Treasurer, Francis Rawle, of Pennsylvania.

For elected members of the Executive Committee :

U. M. Rose, of Arkansas.

Wm. A. Ketcham, of Indiana.

Henry St. George Tucker, of Virginia.

Rodney A. Mercur, of Pennsylvania.

Charles F. Libby, of Maine.

And to present a list of Vice-Presidents and Local Councils from the respective states, which I will ask the Secretary of the Association to read.

The Secretary read the list of nominations for Vice-Presidents and Local Councils.

The President :

The nominations will lie upon the table until the order of election of officers is reached.

Any unfinished business is next in order, and under that head, the Chair understands that there is a report from a committee that has not yet been presented.

The Secretary read the report of the Committee on Law Reporting and Digesting.

The President:

The report being received will be ordered printed and placed on file.

No further action seems to be needed.

(See the Report in the Appendix.)

Robert S. Taylor, of Indiana:

I offer the following resolution:

Resolved, That the Committee on Patent, Trade-mark and Copyright Law be directed to consider the subject of securing greater uniformity of decisions in patent, trade-mark and copyright cases and report thereon at the next meeting of the Association.

Selden P. Spencer, of Missouri:

I second that resolution.

The resolution was adopted.

The President:

We are under the head of miscellaneous business.

Frederick Bertollette, of Pennsylvania:

I desire to offer a resolution from the delegates from Pennsylvania, and move its adoption. It is as follows:

Resolved, That the State Bar Associations of the United States be requested to report on or before the first day of August of each year to the Secretary or to the Publication Committee of the American Bar Association a brief outline or summary of the year's work, including the titles of addresses read before them and a synopsis of all affirmative action taken on reform legislation recommended by the Association.

The President:

The Chair would suggest that the resolution read that they report to the Secretary instead of the Publication Committee, as

the Publication Committee really does not begin its duties until the commencement of the meeting each year.

Frederick Bertollette :

I will accept the Chair's suggestion and strike out the words "or the Publication Committee" in my resolution, so that it will read that they will report to the Secretary of the Association.

The President :

Is the resolution seconded ?

I. F. Baxter, of Nebraska :

I second it.

The resolution as amended was adopted.

The President :

Is there any further miscellaneous business ?

Francis Rawle, of Pennsylvania :

At the suggestion, or perhaps by the direction of the Executive Committee, I ask your permission to say a few words about the banquet which was given by the English Bench and Bar to the American Bench and Bar, in London, on July 27th.

It took place in the ancient and historic hall of the Middle Temple, and was a most interesting event. And it was interesting, too, as being the second banquet of the kind ever given by the English Bar. The first was in honor of the famous French advocate, M. Berryer, in 1864, at which great addresses were delivered by Lord Cockburn and Lord Brougham. There were present at the banquet in July, forty members of the American Bench and Bar. This included three former Presidents of this Association—the American Ambassador, Mr. Choate, who proposed the toast to the Queen ; Judge Baldwin, who responded to the toast to the American Bench, and Judge Woolworth. The Lord Chancellor presided. The Master of the Rolls was present, and, I think, most of the Lord Justices of Appeal and the Law Lords, and a majority of the Justices of the High Court ; the Attorney-General and the Solicitor-General, and practically the working Bar of

England, to the number of about two hundred. The Lord Chief Justice of Ireland and representatives of the Colonial Bench and Bar were also among the guests. The absence most regretted was that of the Lord Chief Justice of England, so soon to be followed by his death.

The expression of regard and consideration for the Bench and Bar of this country, and for this Association as their representative, was earnest and hearty. As a compliment to this Association, its Treasurer had the honor of proposing the toast to the Bench and Bar of England.

The speeches will be published and copies sent to this country.

I ask leave to offer the following, and move that it be spread upon the minutes :

On July 27th, a banquet was given in London in the ancient hall of the Middle Temple by the Bench and Bar of England to their brethren of the Bench and Bar of the United States. The American Bar Association desires to place upon its record its hearty acknowledgment of this fraternal act and a cordial reciprocation of the sentiments which prompted it.

The President :

Is the adoption of this minute seconded ?

Edmund Wetmore, of New York :

I second it.

The minute was unanimously adopted.

Francis Rawle, of Pennsylvania :

There has been some question in the minds of the Committee on Publications as to its power to authorize the printing of the proceedings of the two Sections of the Association. I therefore offer the following resolution :

Resolved, That the minutes of the Sections and papers read before them and also the minutes of the Association of Law Schools be referred to the Committee on Publications, to be printed with the annual report of this Association if they approve the same.

John Nicholson, Jr., of New York :

Would it not be advisable to add to that resolution the words "in whole or in part," because the Publication Committee might deem it wise to publish a part of the minutes only. Let us leave them some discretion in the matter.

F. M. Danaher, of New York :

I would suggest as an amendment that the minutes of the Conference of the Bar Examiners of the various States be included. They were published by the Association last year.

Francis Rawle :

I will accept that amendment. As to Mr. Nicholson's suggestion, I think the resolution covers it fully, because it leaves the matter to the Publication Committee's approval.

The resolution as amended by Mr. Danaher was duly seconded and was adopted.

The President :

We now come to the closing order of business—the election of officers. The Constitution of the Association does not state the manner in which these officers shall be elected. The Chair suggests as a proper method of procedure that the chief officer of the Association, its President, ought perhaps to be elected separately and apart from the others. What is the pleasure of the Association in that regard ?

Hiram F. Stevens, of Missouri :

I move that the Secretary be instructed to cast the ballot of the Association for the election of Edmund Wetmore as President.

The President :

The Chair prefers to put the question in the form of asking unanimous consent. Is there objection to this course being pursued ? The Chair hears none and the Secretary will cast the ballot of the Association for the election of Edmund Wetmore as President of the Association for the ensuing year.

The Secretary cast the ballot.

The President:

The Chair takes great pleasure in announcing that Mr. Edmund Wetmore is unanimously elected. What is the pleasure of the Association in reference to the election of the other officers of the Association?

Albert H. Walker, of New York:

I ask that unanimous consent be given for the election of the other gentlemen named by acclamation.

All the officers, vice-presidents and members of the Local Councils previously nominated were then duly elected for the ensuing year.

The President:

Is there any other business to come before the Association?

Lester L. Bond, of Illinois:

Mr. President, I move that the Association now adjourn.

The President:

Before the motion to adjourn is put, the Chair desires to congratulate the Association upon its growing efficiency and strength. It has been in the past, it undoubtedly will continue to be in the future, a shaping force in the jurisprudence of this Republic. It is a matter for congratulation that this meeting in the year 1900 has a larger attendance of members than any that has ever been held at Saratoga Springs, except in the year 1896, when we were favored with the presence of Lord Russell of Killowen. At the meeting last year at Buffalo, which was one of exceeding interest on account of the presence with us of the International Law Association, and at the meeting here, the occupant of the chair has felt that he has been upheld and sustained by the harmony and good feeling that has characterized the Association. He extends his thanks for this and many other courtesies and for the very high honor you bestowed upon him, and declares this meeting of the American Bar Association adjourned without day.

JOHN HINKLEY,

Secretary.

SECRETARY'S REPORT.

SARATOGA SPRINGS, N. Y., August 29, 1900.

The report of the proceedings of our last meeting, at Buffalo, New York, in August, 1899, has been printed and distributed to all the members, and also to a large number of libraries and Bar Associations on our free mailing list.

There were 1541 members at the close of the last meeting. Twenty-one members have been elected by the Executive Committee between meetings, under Article IV of the Constitution as amended.

All of the States, except Nevada, and all of the Territories, are represented in our membership.

Invitations were sent to all State Bar Associations to send three delegates to this meeting, and to all City and County Bar Associations, in States having no State Bar Association, to send two delegates. The number of State Bar Associations has been increasing until now thirty-six of the forty-five States have such Associations.

A copy of the report of the Committee on International Law made at the last meeting was, in accordance with the resolution of the Association, sent to the President of the United States, and to each Senator.

Reports of the Committees on Jurisprudence and Law Reform, on Commercial Law and on Patent, Trade-Mark and Copyright Law, and the Special Committee on Indian Legislation, for this year, have been printed and distributed to members by mail, fifteen days before the meeting.

Notices were sent to all members of standing and special committees, requesting their attention to matters referred to such committees.

A complete index of the twenty-two volumes of the reports of the Association, together with a list of all persons who

have been members, with the dates of their membership, has been prepared under the supervision of the Secretary and is ready for the printer.

The register of those in attendance is kept on the table at the hall of meeting during the sessions, and is at the reception room in the Grand Union Hotel in the intervals. This list is valuable for reference, and every member or delegate is requested to sign it as early as convenient. A list of those present will be printed for distribution at the meeting, and will also be included in the report of proceedings.

There are copies of the constitution, lists of officers and members of committees and forms of nominations on the table for distribution.

Respectfully submitted,

JOHN HINKLEY,

Secretary.

TREASURER'S REPORT.

1899-1900.

Dr.

To balance from last report,		\$4,506 88
" cash received—dues of members,	\$7,135 00	
" " " —interest on special deposit,	15 00	
" " " —sale of Reports,	35 00	7,185 00
		<hr/>
		\$11,691 88

Cr.

1899.

Sept. 1.	By cash paid—Sundry expenses of		
	22d Annual Dinner, .	\$28 40	
1.	" " " —Cablegrams to Messrs.		
	Choate and Laborie, . .	27 17	
1.	" " " —Buffalo Review Co.,		
	printing for 22d Meet-		
	ing,	15 00	
1.	" " " —Ellicott Club, 22d An-		
	nual Dinner,	1,628 90	
1.	" " " —Expenses of Acting		
	President,	160 00	
2.	" " " —Table decorations, 22d		
	Annual Dinner,	50 00	
3.	" " " —Hotel Iroquois, ex-		
	penses of 22d Meeting,	33 25	
8.	" " " —Expenses of Treasurer's		
	Clerk to Buffalo, 22d		
	Meeting,	60 50	
11.	" " " —Three months' rent, stor-		
	age room,	30 00	
		<hr/>	
	Amount carried forward, . . .	\$2,033 22	\$11,691 88

REPORT OF THE TREASURER.

51

1899.			By amount brought forward, . . .	\$2,033 22	\$11,691 88
Sept. 21.	By cash paid—	Printed stamped envelopes,		42 40	
Oct. 5.	"	"	" —Chairman's expenses of Com. on Uniform State Laws,	100 00	
14.	"	"	" —C. A. Morrison, Stenographer, 22d Meeting, .	226 45	
14.	"	"	" —Secretary, for his disbursements for Clerk hire, Stationery, etc., for year ending August, 30, 1899,	287 06	
27.	"	"	" —Chairman's expenses of Com. on Federal Courts, for year ending August 30, 1899, . . .	398 22	
Nov. 16.	"	"	" —Three months' rent, storage room,	30 00	
1900.					
Jan. 3.	"	"	" —Expenses of Committee on Legal Education for current year,	84 92	
19.	"	"	" —Expenses of Committee on Legal Education for current year,	100 00	
Feb. 16.	"	"	" —Three months' rent, storage room,	30 00	
March 3.	"	"	" —Preparing for shipment 22d Report,	14 00	
14.	"	"	" —Printed stamped envelopes,	63 60	
22.	"	"	" —Receipt Book,	6 75	
April 6.	"	"	" —Expenses of Committee on Appeals from Orders Granting Injunctions, .	183 10	
Amount carried forward, . . .				\$3,599 72	\$11,691 88

1900.		By amount brought forward, . .	\$3,599 72	\$11,691 88
April 9.	By cash paid—Committee on John Marshall Day,		500 00	
14.	" " " —Expenses of meeting of Executive Committee, .		18 00	
30.	" " " —Secretary, on account of his disbursements as Secretary for Clerk hire, etc., for current year, .		200 00	
May 4.	" " " —Expenses of meeting of Executive Committee, .		10 00	
24.	" " " —Three months' rent, storage room,		30 00	
June 5.	" " " —U. S. Express Co., distributing 22d Annual Report,		404 34	
12.	" " " —Insurance on Reports, .		6 00	
July 12.	" " " —Expenses as member of Committee on Appeals from Orders Granting Injunctions,		10 00	
18.	" " " —Dando Print. & Pub. Co., printing, binding, etc., 22d Annual Report, .		2,162 35	
18.	" " " —Same, extra copies of addresses, papers, etc., .		453 70	
18.	" " " —Same, binding 250 old Reports, printing circulars, notices and general printing to date, . . .		179 23	
Aug. 4.	" " " —Expenses of Committee on Legal Education, current year,		112 02	
10.	" " " —Three months' rent, storage room,		30 00	
Amount carried forward, . . .			\$7,715 36	\$11,691 88

REPORT OF THE TREASURER.

53

1900.	By amount brought forward, . .	\$7,715 36	\$11,691 88
Aug. 13.	By cash paid—Postage on Reports of Committees distributed to members,	31 00	
20.	“ “ “ —Clerk to Treasurer, one year,	350 00	
23.	“ “ “ —Incidental expenses of 23d Meeting and Dinner,	71 25	
23.	“ “ “ —Sundry expenses, tele- grams, expressage, etc., one year,	67 30	
	Balance,	\$3,456 97	
			<u>\$11,691 88</u> <u>\$11,691 88</u>

Which balance consists of—

Amount to credit of Treasurer in Quaker City Nat. Bank, Philadelphia,	2,941 20
Certificate of deposit in Union Trust Company of Philadel- phia, at 3 per cent. interest, .	500 00
Cash on hand,	15 77
	<u>\$3,456 97</u>

Respectfully submitted,

FRANCIS RAWLE,
Treasurer.

SARATOGA SPRINGS, N. Y., *August 29, 1900.*

The above and foregoing account has been audited and
is found correct.

WM. L. JANUARY,
THOS. H. ROBINSON,
Auditing Committee.

Saratoga Springs, N. Y., August 29, 1900.

REPORT
OF THE
EXECUTIVE COMMITTEE.

SARATOGA SPRINGS, August 29, 1900.

The Executive Committee respectfully report that under the last clause of Article IV of the Constitution, providing for the election of members by the Executive Committee between meetings when nominated by a majority of the Vice-President and Local Council, the following twenty-one members were elected :

(See List at End of List of New Members.)

Your committee further report that in accordance with the 12th By-Law, appropriations were made for the use of committees for the year 1899-1900 on their application, not exceeding the following amounts :

\$600 to Committee on Legal Education and Admission to the Bar.

\$250 to Committee on Patent, Trade-mark and Copyright Law.

\$150 to Committee on Uniform State Laws.

\$500 to Committee on Federal Courts.

\$250 to Committee on Appeals from Orders Appointing Receivers.

\$500 to Committee on "John Marshall Day."

All committees for the ensuing year whose work may entail expense, are requested to conform to the 12th By-Law, which

requires "previous application in advance of the expenditure." Such application should be made to the Executive Committee through the Secretary.

Respectfully submitted,

CHARLES F. MANDERSON,
JOHN HINKLEY,
FRANCIS RAWLE,
U. M. ROSE,
CHARLES NOBLE GREGORY,
EDMUND WETMORE,
W. A. KETCHAM,
H. ST. G. TUCKER.

Executive Committee.

MEMBERS REGISTERED

AT THE

TWENTY-THIRD ANNUAL MEETING.

1900.

CHARLES F. MANDERSON, Nebraska.
President.

JOHN HINKLEY, Maryland.
Secretary.

FRANCIS RAWLE, Pennsylvania.
Treasurer.

CHARLES NOBLE GREGORY, Wisconsin.

U. M. ROSE, Arkansas.

EDMUND WETMORE, New York.

W. A. KETCHAM, Indiana.

H. ST. G. TUCKER, Virginia.

Executive Committee.

BENJ. F. ABBOTT, Georgia.

JAMES BARR AMES, Massachusetts.

JAS. DEWITT ANDREWS, Illinois.

THEODORE AUB, New York.

ALBERT A. BAKER, Rhode Island.

WILLIAM H. BAKER, Florida.

CHARLES BARBER, Wisconsin.

LYMAN E. BARNES, Wisconsin.

E. M. BARTLETT, Nebraska.

E. J. BAXTER, Tennessee.

IRVING F. BAXTER, Nebraska.

MORRIS B. BEARDSLEY, Connecticut.

GEORGE E. BEERS, Connecticut.

SAMUEL C. BENNETT, Massachusetts.

J. J. BERGEN, New Jersey.

RICHARD BERNARD, Maryland.

FREDERICK BERTOLETTE, Pennsylvania.

J. W. RUFUS BESSON, New Jersey.

J. CRAWFORD BIGGS, North Carolina.

ALBERT BLAIR, Missouri.

JAMES L. BLAIR, Missouri.

MEMBERS REGISTERED.

57

JOHN S. BLAIR,	District of Columbia.
L. C. BLANCHARD,	Iowa.
LESTER L. BOND,	Illinois.
CHARLES BORCHERLING,	New Jersey.
J. C. BRADFORD,	Tennessee.
W. T. BRANTLY,	Maryland.
WILLIAM P. BREEN,	Indiana.
MICHAEL H. BRENNAN,	North Dakota.
L. D. BREWSTER,	Connecticut.
JOHN L. BRIDGERS,	North Carolina.
JOHN P. BRISCOE,	Maryland.
FREDERICK G. BROMBERG,	Alabama.
CHAPIN BROWN,	District of Columbia.
GEORGE L. BUIST,	South Carolina.
E. F. BULLARD,,	New York.
H. F. BURKET,	Ohio.
JACOB F. BURKET,	Ohio.
J. ALSTON CABELL,	Virginia.
E. C. CAMP,	Tennessee.
JAMES R. CATON,	Virginia.
J. W. CHAMPLIN,	Michigan.
IRA A. CHASE,	New Hampshire.
MELVILLE CHURCH,	District of Columbia.
JAMES GARDNER CLARK,	Connecticut.
GEORGE E. CLARKE,	Indiana.
L. H. CLEMENT,	North Carolina.
S. B. COCKRILL,	Arkansas.
C. C. COLE,	Iowa.
J. H. COLLINS,	Ohio.
ALFRED M. COPELAND,	Massachusetts.
COE I. CRAWFORD,	South Dakota.
M. EUGENE CULVER,	Connecticut.
HARRY C. CURTIS,	Rhode Island.
WM. S. CURTIS,	Missouri.
F. M. DANAHER,	New York.
HENRY E. DAVIS,	District of Columbia.
JOHN DEERY,	Iowa.
HENRY S. DEWEY,	Massachusetts.
M. F. DICKINSON, JR.,	Massachusetts.
F. C. DILLARD,	Texas.
SPENCER C. DOTY,	New York.
LOUIS F. DOYLE,	New York.
C. A. DUDLEY,	Iowa.
MICHAEL DUNN,	New Jersey.
SAMUEL C. EASTMAN,	New Hampshire.

SIDNEY C. EASTMAN,	Illinois.
AMASA M. EATON,	Rhode Island.
GEORGE HOWARD FALL,	Massachusetts.
J. W. FELLOWS,	New Hampshire.
J. NEWTON FIERO,	New York.
G. A. FINKELNBURG,	Missouri.
F. P. FISH,	Massachusetts.
MARTIN DEWEY FOLLETT,	Ohio.
FRANCIS FORBES,	New York.
J. FRANKLIN FORT,	New Jersey.
EDWARD J. FOX,	Pennsylvania.
EDWIN B. GAGER,	Connecticut.
THEODORE S. GARNETT,	Virginia.
GEORGE GILLHAM,	Tennessee.
WM. A. GLASGOW, JR.,	Virginia.
HENRY R. GOETCHIUS,	Georgia.
W. P. GOODELLE,	New York.
A. P. GREELEY,	District of Columbia.
ROGER GREGORY,	Virginia.
S. GRIFFIN,	Virginia.
IGNATIUS C. GRUBB,	Delaware.
ALEX. HADDEN,	Ohio.
JAMES HAGERMAN,	Missouri.
WILLIAM M. HALL, JR.,	Pennsylvania.
JOHN R. HARDIN,	New Jersey.
WM. M. HARGEST,	Pennsylvania.
R. L. HARMON,	Alabama.
E. A. HARRIMAN,	Illinois.
GEORGE P. HARRISON,	Alabama.
FREDERIC F. HASKELL,	Massachusetts.
WALLACE R. HEADY,	Massachusetts.
THOMAS N. HILL,	North Carolina.
JESSE HOLDOM,	Illinois.
E. H. HOPKINS,	Ohio.
WILLIAM H. HOTCHKISS,	New York.
WILLIAM WIRT HOWE,	Louisiana.
CHAS. B. HOWRY,	Mississippi.
ROBT. M. HUGHES,	Virginia.
GRENVILLE M. INGALSBE,	New York.
HENRY H. INGERSOLL,	Tennessee.
R. G. JAMES,	Virginia.
WM. L. JANUARY,	Michigan.
H. H. JOHNSON,	Ohio.
THOMAS J. JOHNSON,	New York.
JAMES I. KAY,	Pennsylvania.

EDWARD C. KEHR,	Missouri.
E. W. KRUTTSCHNITT,	Louisiana.
GEORGE B. KULP,	Pennsylvania.
J. R. LAMAR,	Georgia.
JOHN D. LAWSON,	Missouri.
U. S. LESH,	Indiana.
HOWARD C. LEVIS,	New York.
L. L. LEWIS,	Virginia.
CHARLES F. LIBBY,	Maine.
C. A. LIGHTNER,	Michigan.
W. LITTLEFIELD,	Kansas.
WALTER S. LOGAN,	New York.
JULIAN W. MACK,	Illinois.
JOHN B. MADIGAN,	Maine.
J. T. MAFFETT,	Pennsylvania.
ALBERT D. MARKS,	Tennessee.
CHARLES MARTINDALE,	Indiana.
JOHN T. MASON, R.,	Maryland.
P. W. MELDRIM,	Georgia.
JOSHUA W. MILES,	Maryland.
AUGUSTUS S. MILLER,	Rhode Island.
FRANK H. MILLER,	Georgia.
M. CLEILAND MILNOR,	New York.
J. B. MOORE,	Michigan.
J. B. MOORE,	New York.
MERRILL MOORES,	Indiana.
T. A. MORAN,	Illinois.
JOHN MORRIS, JR.,	Indiana.
GODFREY MORSE,	Massachusetts.
WALDO G. MORSE,	New York.
ADOLPH MOSES,	Illinois.
EUGENE MULLIN,	Pennsylvania.
MICHAEL A. MULLIN,	Maryland.
THOMAS N. MCCLELLAN,	Alabama.
A. J. MCCRARY,	Iowa.
E. E. MCELROY,	Iowa.
J. NOTA MCGILL,	District of Columbia.
DONALD MCLEAN,	New York.
J. W. MCLOUD,	Arkansas.
WM. D. MCNULTY,	New York.
WILLIAM P. MCRAE,	Virginia.
ALEXANDER NEW,	Missouri.
HENRY G. NEWTON,	Connecticut.
JOHN NICOLSON, JR.,	New York.
BENJAMIN NIELDS,	Delaware.

CHARLES P. NORTON,	New York.
RUSSELL C. OSTRANDER,	Michigan.
GEORGE T. PAGE,	Illinois.
FREDERICK PARKER,	New Jersey.
R. A. PARMENTER,	New York.
S. R. PEALE,	Pennsylvania.
WILLIAM H. PERKINS, JR.,	Maryland.
CHARLES PHELPS,	Connecticut.
SAMUEL O. PICKENS,	Indiana.
DEXTER B. POTTER,	Rhode Island.
H. C. RANNEY,	Ohio.
ALFRED G. REEVES,	New York.
GEO. L. REINHARD,	Indiana.
B. A. RICH,	New York.
THOMAS H. ROBINSON,	Maryland.
R. LYON ROGERS,	Maryland.
WILLIAM P. ROGERS,	Indiana.
G. B. ROSE,	Arkansas.
SIDNEY L. SAMUELS,	Texas.
S. D. SCHMUCKER,	Maryland.
PAUL E. SEABROOK,	Georgia.
ALONZO T. SEARLE,	Pennsylvania.
FERDINAND SHACK,	New York.
GEORGE M. SHARP,	Maryland.
HARVEY N. SHEPARD,	Massachusetts.
J. F. SLAGLE,	Pennsylvania.
EDWIN BURRITT SMITH,	Illinois.
L. R. SMITH,	District of Columbia.
WALTER GEORGE SMITH,	Pennsylvania.
WILLIS B. SMITH,	Virginia.
BURLEIGH F. SPALDING,	North Dakota.
SELDEN P. SPENCER,	Missouri.
LEWIS E. STANTON,	Connecticut.
HIRAM F. STEVENS,	Minnesota.
JOHN H. STINESS,	Rhode Island.
HENRY STOCKBRIDGE,	Maryland.
WM. C. STRAWBRIDGE,	Pennsylvania.
R. S. TAYLOR,	Indiana.
J. W. TERRY,	Texas.
JAMES B. THAYER,	Massachusetts.
ALFRED P. THOM,	Virginia.
A. E. THOMPSON,	Wisconsin.
SEYMOUR D. THOMPSON,	New York.
BARTLETT TRIPP,	South Dakota.
ALEXANDER TROY,	Alabama.

HERBERT B. TURNER,	New York.
GEORGE W. VAN SLYCK,	New York.
W. W. VAN WINKLE,	West Virginia.
RICHARD M. VENABLE,	Maryland.
ALBERT H. WALKER,	New York.
GEORGE P. WANTY,	Michigan.
GEORGE D. WATROUS,	Connecticut.
JAMES H. WEBB,	Connecticut.
JOHN H. WIGMORE,	Illinois.
W. F. WILLCOX,	Connecticut.
J. J. WILLETT,	Alabama.
R. W. WILLIAMS,	Florida.
S. A. WILLIAMS,	Maryland.
W. PRESTON WILLIAMSON,	District of Columbia.
JOHN S. WIRT,	Maryland.
JESSE H. WISE,	Pennsylvania.
DAVID L. WITHINGTON,	California.
S. P. WOLVERTON,	Pennsylvania.
EVANS WOOLLEN,	Indiana.
D. K. YOUNG,	Tennessee.

Total Registered, 229.

DELEGATES, 1900.

ALABAMA STATE BAR ASSOCIATION.

GEORGE P. HARRISON, Opelika.
FREDERICK G. BROMBERG, Mobile.
R. L. HARMON, Montgomery.

BAR ASSOCIATION OF NEWCASTLE COUNTY, DELAWARE.

BENJAMIN NIELDS, Wilmington.
ANDREW C. GRAY, Wilmington.

JACKSONVILLE BAR ASSOCIATION, FLORIDA.

WILLIAM H. BAKER, Jacksonville.

GEORGIA BAR ASSOCIATION.

HENRY R. GOETCHIUS, Columbus.
JOSEPH R. LAMAR, Augusta.
HAMILTON McWHORTER, Lexington.

ILLINOIS STATE BAR ASSOCIATION.

BENSON WOOD, Effingham.
GEORGE R. PECK, Chicago.
GEORGE T. PAGE, Peoria.

STATE BAR ASSOCIATION OF INDIANA.

SAMUEL O. PICKENS, Indianapolis.
GEORGE E. CLARKE, South Bend.
WILLIAM P. ROGERS, Bloomington.

IOWA STATE BAR ASSOCIATION.

L. C. BLANCHARD, Oskaloosa.
E. E. McELROY, Ottumwa.
C. C. COLE, Des Moines.

BAR ASSOCIATION OF THE STATE OF KANSAS.

FRANK DOSTER, Marion.
ALBERT H. HORTON, Topeka.
W. LITTLEFIELD, Topeka.

MAINE STATE BAR ASSOCIATION.

ANDREW P. WISWELL, Ellsworth.
FREDERICK A. POWERS, Houlton.
JOHN B. MADIGAN, Houlton.

MARYLAND STATE BAR ASSOCIATION.

JOSHUA W. MILES, Princess Anne.
JOHN B. BRISCOE, Prince Frederick.
THOMAS H. ROBINSON, Belair.

HAMPDEN BAR ASSOCIATION, MASSACHUSETTS.

WALLACE R. HEADY, Springfield.
CHARLES L. GARDNER, Springfield.

MISSOURI BAR ASSOCIATION.

GEORGE ROBERTSON, Mexico.
FRANK P. SEBREE, Kansas City.
JAMES L. BLAIR, St. Louis.

BAR ASSOCIATION OF THE STATE OF NEW HAMPSHIRE.

JOSEPH W. FELLOWS, Manchester.

NEW JERSEY STATE BAR ASSOCIATION.

DAVID J. PANCOAST, Camden.
JAMES J. BERGEN, Somerville.
JOHN R. HARDIN, Newark.

NEW MEXICO BAR ASSOCIATION.

FRANK SPRINGER, East Las Vegas.
W. B. CHILDRES, Albuquerque.
C. N. STERRY, Los Angeles, Cal.

NEW YORK STATE BAR ASSOCIATION.

ERNEST W. HUFFCUT, Ithaca.
CHARLES J. BUCHANAN, Albany.
JOHN S. WISE, New York.

NORTH CAROLINA BAR ASSOCIATION.

L. H. CLEMENT, Salisbury.
J. CRAWFORD BIGGS, Durham.
THOMAS S. KENAN, Raleigh.

STATE BAR ASSOCIATION OF NORTH DAKOTA.

B. F. SPALDING, Fargo.
 M. H. BRENNAN, Devil's Lake.
 JOHN W. MAHER, Devil's Lake.

OHIO STATE BAR ASSOCIATION.

GEORGE F. ARBEL, Youngstown.
 HARLAN F. BURKET, Findlay.
 H. A. MYKRANTZ, Ashland.

PENNSYLVANIA BAR ASSOCIATION.

FREDERICK BERTOLETTE, Mauch Chunk.
 JESSE H. WISE, Pittsburg.
 ALONZO T. SEARLE, Honesdale.

SOUTH DAKOTA BAR ASSOCIATION.

BARTLETT TRIPP, Yankton.
 EDWIN VAN CISE, Deadwood.
 COE I. CRAWFORD, Huron.

BAR ASSOCIATION OF TENNESSEE.

E. J. BAXTER, Jonesboro.

TEXAS BAR ASSOCIATION.

SIDNEY L. SAMUELS, Fort Worth.
 J. S. HOGG, Austin.
 J. W. TERRY, Galveston.

VIRGINIA STATE BAR ASSOCIATION.

ROGER GREGORY, Richmond.
 JAMES R. CATON, Alexandria.
 ROBERT G. JAMES, Clifton Forge.

WASHINGTON STATE BAR ASSOCIATION.

C. H. HANFORD, Seattle.
 D. J. CROWLEY, Tacoma.
 WILL H. THOMPSON, Seattle.

WEST VIRGINIA BAR ASSOCIATION.

U. S. G. PITZER, Martinsburg.
 GEORGE E. PRICE, Charleston.

STATE BAR ASSOCIATION OF WISCONSIN.

CHARLES BARBER, Oshkosh.
 A. E. THOMPSON, Oshkosh.
 LYMAN E. BARNES, Appleton.

LIST OF MEMBERS ELECTED.

ALABAMA.

HARMON, R. L., Montgomery.
HARRISON, GEORGE P., Opelika.
TROY, ALEXANDER, Montgomery.

CALIFORNIA.

OTIS, GEORGE E., San Bernardino.

CONNECTICUT.

NEWTON, HENRY G., New Haven.

DELAWARE.

NIELDS, BENJAMIN, Wilmington.

DISTRICT OF COLUMBIA.

BROWNE, ALDIS B., Washington.
DENNIS, WILLIAM H., Washington.
HOWARD, GEORGE H., Washington.
KENNEDY, CRAMMOND, Washington.
LAMBERT, WILTON J., Washington.
MICHENER, L. T., Washington.
MCGILL, J. NOTA, Washington.
PERRY, R. ROSS, JR., Washington.

FLORIDA.

BAKER, WILLIAM H., Jacksonville.

GEORGIA.

GOETCHIUS, HENRY R., Columbus.
SEABROOK, PAUL E., Pineora.

ILLINOIS.

GOODRICH, ADAMS A., Chicago.
MORAN, THOMAS A., Chicago.
PAGE, GEORGE T., Peoria.
ROGERS, GEORGE MILLS, Chicago.
RUBENS, HARRY, Chicago.
SHERIFF, ANDREW R., Chicago.

INDIANA.

BUSHNELL, WILLIAM S., Monticello.
 DEMOTTE, MARK L., Valparaiso.
 HAMMOND, EDWIN P., LaFayette.
 LOCKWOOD, VIRGIL H., Indianapolis.
 WOOLLEN, EVANS, Indianapolis.

KENTUCKY.

KOHN, AARON, Louisville.
 MARSHALL, BURWELL K., Louisville.
 TONEY, STERLING B., Louisville.

MAINE.

MADIGAN, JOHN B., Houlton.
 WISWELL, ANDREW P., Ellsworth.

MARYLAND.

BRISCOE, JOHN P., PrinceFrederick.
 GAITHER, GEORGE R., JR., Baltimore.
 MILES, JOSHUA W., Princess Anne.
 SCHMUCKER, SAMUEL D., Baltimore.
 STOCKBRIDGE, HENRY, Baltimore.
 THOMAS, WILLIAM S., Baltimore.

MASSACHUSETTS.

BACON, GEORGE A., Springfield.

MICHIGAN.

HUTCHINS, HARRY B., Ann Arbor.
 MCGREGOR, MALCOLM, Detroit.
 WETHERBEE, WILLIAM H., Detroit.

MISSOURI.

SEBREE, FRANK P., Kansas City.

NEW HAMPSHIRE.

BATCHELLOR, ALBERT S., Littleton.

NEW JERSEY.

BERGEN, JAMES J., Somerville.
 DUNN, MICHAEL, Paterson.
 HARDIN, JOHN R., Newark.
 PARKER, FREDERICK, Freehold.

NEW YORK.

ASHLEY, CLARENCE D.,	New York.
AUB, THEODORE,	New York.
CALLAGHAN, ALEXANDER J. A.,	New York.
DUTTON, JOHN A.,	New York.
EWING, HAMPTON D.,	Yonkers.
GOODELLE, WILLIAM P.,	Syracuse.
GUNNISON, ROYAL A.,	Binghamton.
KLOCK, GEORGE S.,	Utica.
NORTON, CHARLES P.,	Buffalo.
SCOTT, JAMES L.,	Saratoga Springs.
TOWNSEND, MARTIN I.,	Troy.

NORTH CAROLINA.

BIGGS, J. CRAWFORD,	Durham.
CLEMENT, L. H.,	Salisbury.

NORTH DAKOTA.

BRENNAN, MICHAEL H.,	Devil's Lake.
SPALDING, BURLEIGH FOLSOM,	Fargo.

OHIO.

BURKET, HARLAN F.,	Finlay.
JACKSON, WILLIAM H.,	Cincinnati.
JONES, JAMES M.,	Cleveland.

PENNSYLVANIA.

HARGEST, WILLIAM M.,	Harrisburg.
MULLIN, EUGENE,	Bradford City.
MCCORMICK, HENRY C.,	Williamsport.
PEALE, S. R.,	Lock Haven.
REARDON, JOHN J.,	Williamsport.
RYON, WILLIAM W.,	Shamokin.
WEISER, J. G.,	Middlebury.
WISE, JESSE H.,	Pittsburg.
WOODWARD, FREDERIC C.,	Carlisle.

SOUTH DAKOTA.

CRAWFORD, COE I.,	Huron.
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TENNESSEE.

BAXTER, E. J.,	Jonesboro.
GILLHAM, GEORGE,	Memphis.

TEXAS.

SAMUELS, SIDNEY L., Fort Worth.
 TERRY, J. W., Galveston.

VIRGINIA.

CATON, JAMES R., Alexandria.
 GREGORY, ROGER, Richmond.

WISCONSIN.

BARBER, F. J., Oshkosh.
 BARNES, LYMAN E., Appleton.
 BURNELL, GEORGE W., Oshkosh.
 KERWIN, J. C., Neenah.
 PHILLIPS, M. C., Oshkosh.
 THOMPSON, A. E., Oshkosh.

. Number elected at Meeting, 89.

ELECTED BY EXECUTIVE COMMITTEE BETWEEN MEETINGS
 1899-1900.

GEORGIA.

MERRILL, JOSEPH HANSELL, Thomasville.

ILLINOIS.

ROGERS, ELMER E., Chicago.

INDIAN TERRITORY.

BURCKHALTER, JAMES B., Vinita.

INDIANA.

FRAZER, DANIEL B., Fowler.
 WILLIAMS, JOHN G., Indianapolis.

KENTUCKY.

BULLITT, WILLIAM MARSHALL, Louisville.

NEBRASKA.

BROGAN, FRANCIS A., Omaha.
 BURR, CHARLES L., Lincoln.
 CORCORAN, GEORGE F., Lincoln.
 FISHER, ALLEN G., Chadron.

NEBRASKA—Continued.

MAHONEY, TIMOTHY J., Omaha.
MARTIN, FRANCIS, Falls City.
MCINTOSH, JAMES H., Omaha.
WHITE, BENJAMIN S., Omaha.
WRIGHT, CARL C., Omaha.

NEW JERSEY.

CLEVINGER, WILLIAM M., Atlantic City.

NORTH CAROLINA.

WALKER, PLATT D., Charlotte.

PENNSYLVANIA.

FOX, EDWARD J., Easton.
LEWIS, FRANCIS D., Philadelphia.
MORGAN, JR., CHARLES E., Philadelphia.

VIRGINIA.

TUCKER, H. ST. G., Lexington.

Number elected by Executive Committee, 21.

RECAPITULATION.

Alabama,	3	Nebraska,	9
California,	1	New Hampshire,	1
Connecticut,	1	New Jersey,	5
Delaware,	1	New York,	11
District of Columbia, . . .	8	North Carolina,	3
Florida,	1	North Dakota,	2
Georgia,	3	Ohio,	3
Illinois,	7	Pennsylvania,	12
Indian Territory,	1	South Dakota,	1
Indiana,	7	Tennessee,	2
Kentucky,	4	Texas,	2
Maine,	2	Virginia,	3
Maryland,	6	Wisconsin,	6
Massachusetts,	1		
Michigan,	3	Total,	110
Missouri,	1		

MEMORANDUM.

The Annual Dinner was given on Friday, August 31st, at the Grand Union Hotel. Robert S. Taylor, of Indiana, presided. One hundred and fifty-four members were present. Mr. Justice White, of the Supreme Court of the United States, was present as a guest of the Association.

LIST OF PRESIDENTS.

1. 1878-79-*JAMES O. BROADHEAD,¹ . . . St. Louis, Missouri.
2. 1879-80-*BENJAMIN H. BRISTOW, . . . New York, New York.
3. 1880-81-*EDWARD J. PHELPS, . . . Burlington, Vermont.
4. 1881-82-*CLARKSON N. POTTER,² . . . New York, New York.
5. 1882-83-*ALEXANDER R. LAWTON, . . Savannah, Georgia.
6. 1883-84-CORTLANDT PARKER, . . . Newark, New Jersey.
7. 1884-85-*JOHN W. STEVENSON, . . . Covington, Kentucky.
8. 1885-86-WILLIAM ALLEN BUTLER, . . New York, New York.
9. 1886-87-*THOMAS J. SEMMES, . . . New Orleans, Louisiana.
10. 1887-88-*GEORGE G. WRIGHT, . . . Des Moines, Iowa.
11. 1888-89-*DAVID DUDLEY FIELD, . . . New York, New York.
12. 1889-90-HENRY HITCHCOCK, . . . St. Louis, Missouri.
13. 1890-91-SIMEON E. BALDWIN, . . . New Haven, Connecticut.
14. 1891-92-JOHN F. DILLON, . . . New York, New York.
15. 1892-93-*J. RANDOLPH TUCKER, . . . Lexington, Virginia.
16. 1893-94-*THOMAS M. COOLEY,³ . . . Ann Arbor, Michigan.
17. 1894-95-JAMES C. CARTER, . . . New York, New York.
18. 1895-96-MOORFIELD STOREY, . . . Boston, Massachusetts.
19. 1896-97-JAMES M. WOOLWORTH,⁴ . . . Omaha, Nebraska.
20. 1897-98-WILLIAM WIRT HOWE, . . . New Orleans, Louisiana.
21. 1898-99-JOSEPH H. CHOATE,⁴ . . . New York, New York.
22. 1899-1900-CHARLES F. MANDERSON, . . Omaha, Nebraska.
23. 1900-1901-EDMUND WETMORE, . . . New York, New York.

* Deceased.

¹ At the Conference for organizing the Association in 1878, John H. B. Latrobe, of Maryland, was elected Temporary Chairman, and when the organization was completed, Benjamin H. Bristow, of Kentucky, was elected President of the Conference.

² In consequence of the death of Clarkson N. Potter, Francis Kernan, of New York, presided and prepared and delivered the President's Address in 1882.

³ In consequence of the illness of Thomas M. Cooley, Samuel F. Hunt, of Ohio, presided and read the President's Address prepared by Judge Cooley in 1894.

⁴ In consequence of the absence of Joseph H. Choate, as Ambassador to Great Britain, Charles F. Manderson, of Nebraska, presided and prepared and delivered the President's Address in 1899.

LIST OF SECRETARIES.

1. 1878-93-*EDWARD OTIS HINKLEY,¹ . . . Baltimore, Maryland.
2. 1893- JOHN HINKLEY,² Baltimore, Maryland.

LIST OF TREASURERS.

1. 1878- FRANCIS RAWLE, Philadelphia, Penna.

LIST OF EXECUTIVE COMMITTEE.

1. 1878-87-*LUKE P. POLAND, St. Johnsbury, Vermont.
2. 1878-88-SIMEON E. BALDWIN,³ New Haven, Connecticut.
3. 1878-80-WILLIAM A. FISHER, Baltimore, Maryland.
4. 1880-85-WILLIAM ALLEN BUTLER, . . . New York, New York.
5. 1885-90-CHARLES C. BONNEY,³ Chicago, Illinois.
6. 1887-96-GEORGE A. MERCER, Savannah, Georgia.
7. 1888-90-*JOHN RANDOLPH TUCKER, . . Lexington, Kentucky.
8. 1890-91-*WILLIAM P. WELLS, Detroit, Michigan.
9. 1890-99-ALFRED HEMENWAY, Boston, Massachusetts.
10. 1891-95-*BRADLEY G. SCHLEY, Milwaukee, Wisconsin.
11. 1895-99-CHARLES CLAFLIN ALLEN, . . . St. Louis, Missouri.
12. 1896-97-WILLIAM WIRT HOWE, New Orleans, Louisiana.
13. 1897-1900-CHARLES NOBLE GREGORY, . . Madison, Wisconsin.
14. 1899-1900-EDMUND WETMORE, New York, New York.
15. 1899- U. M. ROSE, Little Rock, Arkansas.
16. 1899- WILLIAM A. KETCHAM, Indianapolis, Indiana.
17. 1899- HENRY ST. GEORGE TUCKER, . . Lexington, Virginia.
18. 1900- RODNEY A. MERCUR, Towanda, Pennsylvania.
19. 1900- CHARLES F. LIBBY, Portland, Maine.

* Deceased.

¹ In 1878, Francis Rawle, of Pennsylvania, and Isaac Grant Thompson, of New York, acted as temporary Secretaries and as Secretaries of the Conference.

In 1886, Edward Otis Hinkley being absent, Walter George Smith, of Pennsylvania, acted as Secretary *pro tempore*.

² In 1893, John Hinkley being absent, George P. Wentz, of Michigan, acted as Secretary *pro tempore*.

³ In 1888, at the first meeting of the Executive Committee after the adjournment of the Association, Simeon E. Baldwin resigned, and Charles C. Bonney was chosen to fill the vacancy under By-Law X.

CONSTITUTION.

NAME AND OBJECT.

ARTICLE I.—This Association shall be known as “THE AMERICAN BAR ASSOCIATION.” Its object shall be to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout the Union, uphold the honor of the profession of the law, and encourage cordial intercourse among the members of the American Bar.

QUALIFICATIONS FOR MEMBERSHIP.

ARTICLE II.—Any person shall be eligible to membership in this Association who shall be, and shall, for five years next preceding, have been a member in good standing of the Bar of any State, and who shall also be nominated as hereinafter provided.

OFFICERS AND COMMITTEES.

ARTICLE III.—The following officers shall be elected at each Annual Meeting for the year ensuing: A President (the same person shall not be elected President two years in succession); one Vice-President from each State; a Secretary; a Treasurer; a Council, consisting of one member from each State (the Council shall be a standing committee on nominations for office); an Executive Committee, which shall consist of the President, the last ex-President, the Secretary, and the Treasurer, all of whom shall be *ex officio* members, together with five other members, to be chosen by the Association, but no member shall be eligible to such choice more than three years in succession; and the President, and in his absence the ex-President, shall be the Chairman of the committee.*

*Amended August 19, 1898, and August 30, 1899.

The following committees shall be annually appointed by the President for the year ensuing, and shall consist of five members each :

- On Jurisprudence and Law Reform ;
- On Judicial Administration and Remedial Procedure ;
- On Legal Education and Admissions to the Bar ;
- On Commercial Law ;
- On International Law ;
- On Publications ;
- On Grievances ;
- *On Law Reporting and Digesting ;
- †On Patent, Trade-Mark and Copyright Law.

A majority of those members of any committee, including the Council, who may be present at any meeting of the Association, shall constitute a quorum of such committee for the purpose of such meeting.

The Vice-President for each State, and not less than two other members from such State, to be annually elected, shall constitute a Local Council for such State, to which shall be referred all applications for membership from such State. The Vice-President shall be, *ex officio*, Chairman of such Council.

A committee of three, of whom the Secretary shall always be one, shall be appointed by the President at each Annual Meeting of the Association, whose duty it shall be to report to the next meeting the names of all members who shall, in the interval, have died, with such notices of them as shall, in the discretion of the committee, be proper.

It shall be the duty of the Vice-President from each State and Territory to report the deaths of members within the same to the said committee.

ELECTION OF MEMBERS.

ARTICLE IV.—All nominations for membership shall be made by the Local Council of the State to the Bar of which

*By amendment passed August 29, 1895.

†By amendment passed August 30, 1899.

the persons nominated belong. Such nominations must be transmitted in writing to the Chairman of the General Council, and approved by the Council, on vote by ballot.

The General Council may also nominate members from States having no Local Council, and at the Annual Meeting of the Association, in the absence of all members of the Local Council of any State; *Provided*, That no nomination shall be considered by the General Council, unless accompanied by a statement in writing by at least three members of the Association from the same State with the person nominated, or, in their absence, by members from a neighboring State or States, to the effect that the person nominated has the qualifications required by the Constitution and desires to become a member of the Association, and recommending his admission as a member.

All nominations thus made or approved shall be reported by the Council to the Association, and all whose names are reported shall thereupon become members of the Association; *Provided*, That if any member demand a vote upon any name thus reported, the Association shall thereupon vote thereon by ballot.

Several nominees, if from the same State, may be voted for upon the same ballot; and in such case placing the word "No" against any name or names upon the ticket shall be deemed a negative vote against such name or names, and against those only. Five negative votes shall suffice to defeat an election.

During the period between the Annual Meetings, members may be elected by the Executive Committee upon the written nomination of a majority of the Vice-President and members of the Local Council of any State.

ARTICLE V.—All members of the Conference adopting the Constitution, and all persons elected by them upon the recommendation of the committee of five appointed by such Conference, shall become members of the Association upon payment of the annual dues for the current year herein provided for.

BY-LAWS.

ARTICLE VI.—By-Laws may be adopted at any Annual Meeting of the Association by a majority of the members present. It shall be the duty of the Executive Committee, without delay, to adopt suitable By-Laws, which shall be in force until rescinded by the Association.

DUES.

ARTICLE VII.—Each member shall pay five dollars to the Treasurer as annual dues, and no person shall be qualified to exercise any privilege of membership who is in default. Such dues shall be payable, and the payment thereof enforced, as may be provided by the By-Laws. Members shall be entitled to receive all publications of the Association free of charge.

ANNUAL ADDRESS.

ARTICLE VIII.—The President shall open each Annual Meeting of the Association with an address, in which he shall communicate the most noteworthy changes in statute law on points of general interest made in the several States and by Congress during the preceding year. It shall be the duty of the member of the General Council from each State to report to the President, on or before the first day of May, annually, any such legislation in his State.

ANNUAL MEETINGS.

ARTICLE IX.—This Association shall meet annually, at such time and place as the Executive Committee may select, and those present at such meeting shall constitute a quorum.

AMENDMENTS.

ARTICLE X.—This Constitution may be altered or amended by a vote of three-fourths of the members present at any

Annual Meeting, but] no such change shall be made at any meeting at which less than thirty members are present.

CONSTRUCTION.

ARTICLE XI.—The word “*State*,” whenever used in this Constitution, shall be deemed to be equivalent to *State, Territory*, and the *District of Columbia*.

BY-LAWS.

MEETING OF THE ASSOCIATION.

I.—The Executive Committee, at its first meeting after each Annual Meeting, shall select some person to make an address at the next Annual Meeting, and not exceeding six members of the Association to read papers.

II.—The order of exercises at the Annual Meeting shall be as follows :

- (a) Opening Address of the President.
- (b) Nominations and Election of Members.
- (c) Election of the General Council.
- (d) Reports of Secretary and Treasurer.
- (e) Report of Executive Committee.
- (f) Reports of Standing Committees :
 - On Jurisprudence and Law Reform ;
 - On Judicial Administration and Remedial Procedure;
 - On Legal Education and Admissions to the Bar ;
 - On Commercial Law ;
 - On International Law ;
 - On Publications ;
 - On Grievances ;
 - On Law Reporting and Digesting.
- (g) Reports of Special Committees.
- (h) The Nomination of Officers.
- (i) Miscellaneous Business.
- (j) The Election of Officers.

The address, to be delivered by a person invited by the Executive Committee, shall be made at the morning session of the second day of the Annual Meeting.

The reading and delivering of essays and papers shall be on the same day, or at such other time as the Executive Committee may determine.

III.—No person shall speak more than ten minutes at a time or more than twice on one subject.

A stenographer shall be employed at each Annual Meeting.

IV.—Each State Bar Association may annually appoint delegates, not exceeding three in number, to the next meeting of the Association. In States where no State Bar Association exists, any City or County Bar Association may appoint such delegates, not exceeding two in number. Such delegates shall be entitled to all the privileges of membership at and during the said meeting.

V.—At any of the meetings of the Association, members of the Bar of any foreign country or of any State who are not members of the Association may be admitted to the privileges of the floor during such meeting.

VI.—All papers read before the Association shall be lodged with the Secretary. The Annual Address of the President, the reports of committees, and all proceedings at the Annual Meeting shall be printed; but no other address made or paper read or presented shall be printed, except by order of the Committee on Publications.

Extra copies of reports, addresses, and papers read before the Association may be printed by the Committee on Publications for the use of their authors, not exceeding two hundred copies for each of such authors.

The Secretary and the Chairman of the Executive Committee shall endeavor to arrange with the Smithsonian Institution, or otherwise, a system of exchanges by which the *Transactions*

can be annually exchanged with those of other associations in foreign countries interested in jurisprudence or governmental affairs; and the Secretary shall exchange the *Transactions* with those of the State and Local Bar Associations; and all books thus acquired shall be bound and deposited in the charge of the New York City Bar Association, subject to the call of this Association, if it ever desires to withdraw or consult them, if the former Association agrees to such deposit.

The Secretary shall send one copy of the Report of the proceedings of this Association to the President of the United States, and to each of the Judges of the Supreme Court thereof, and to the Library of the State Department, and of the Department of Justice thereof, and to the Library of Congress, and the Library of the Supreme Court thereof, and to the Governor, and to the Chief Judge of the court of last resort of each State, and to the State Librarian thereof, and to all public law libraries, and other principal public and college libraries in the United States, and to such other persons or bodies as the Executive Committee may direct.

No resolution complimentary to an officer or member for any service performed, paper read, or address delivered shall be considered by the Association.

OFFICERS AND COMMITTEES.

VII.—The terms of office of all officers elected at any Annual Meeting shall commence at the adjournment of such meeting, except the Council, whose term of office shall commence immediately upon their election.

VIII.—The President shall appoint all committees, except the Committee on Publications, within thirty days after the Annual Meeting, and shall announce them to the Secretary, and the Secretary shall promptly give notice to the persons appointed. The Committee on Publications shall be appointed on the first day of each meeting.

IX.—The Treasurer's Report shall be examined and audited annually, before its presentation to the Association, by two members to be appointed by the Chairman of the Executive Committee.

X.—The Council and all standing committees shall meet on the day preceding each Annual Meeting, at the place where the same is to be held, at such hour as their respective Chairmen shall appoint. If at any Annual Meeting of the Association any member of any committee shall be absent, the vacancy may be filled by the members of the committee present.

The Secretary of the Association shall be the Secretary of the Council.

XI.—The Committee on Publications shall also meet within one month after each Annual Meeting, at such time and place as the Chairman shall appoint.

XII.—Special meetings of any committee shall be held at such times and places as the Chairman thereof may appoint. Reasonable notice shall be given by him to each member by mail.

The traveling and other necessary expenses incurred by any committee, standing or special, for meetings of such committee, during the interval between the Annual Meetings of the Association, shall be paid by the Treasurer, on the approval and by the order of the Executive Committee, out of such appropriation, as to the Executive Committee may seem necessary in each case, on previous application in advance of its expenditure.

All committees may have their reports printed by the Secretary before the Annual Meeting of the Association; and any such report, containing any recommendation for action on the part of the Association, shall be printed and shall be distributed by mail by the Secretary to all the members of the Association.

at least fifteen days before the Annual Meeting at which such report is proposed to be submitted.*

It shall be the duty of each Vice-President and member of the General Council of this Association to endeavor to procure the enactment by the legislature of their State of each and every law recommended by the Association, and the Secretary shall furnish them with copies of each and every recommendation and draft of bill, when there shall be such draft; and whenever this Association shall by resolution recommend the enactment of any law or laws, the Secretary shall, as soon as possible, furnish a copy of the resolution to the President of each State Bar Association, with the request of this Association that such State Bar Association shall co-operate with the local Vice-President and member of the General Council of this Association in having a bill introduced in the legislature of its State containing the subject-matter recommended by such resolution, and use proper means to procure the enactment of the same into law. In every State where there is no State Bar Association, a copy of such resolution with a similar request, shall be sent to the President of the Bar Association of the principal city in such State; and in every instance where the form of bill has been recommended with the resolution, a copy of such form of bill shall also be sent with the resolution.

ANNUAL DUES.

XIII.—The Annual Dues shall be payable at the Annual Meeting in advance. If any member neglects to pay them for any year at or before the next Annual Meeting, he shall cease to be a member. The Treasurer shall give notice of this By-Law, within sixty days after each meeting, to all members in default.

* The following resolution was adopted on August 30, 1889:

“ *Resolved*, That any standing or special committee hereafter reporting necessary legislation, shall prepare a bill embodying their views, for the approval of the Association.”

A member who has been dropped from the roll for non-payment of dues may be restored to membership by the Executive Committee upon the payment of all back dues. *Provided*, such restoration shall be recommended by a member of the Local Council of his State, or in their absence, at an Annual Meeting, by any two members of the Association.

XIV.—A Section of the Association, to be known as the Section of Legal Education, is hereby established, which shall meet annually in connection with the Meeting of the Association, but not during such hours as the Association is in session.

Its object shall be the discussion of methods of Legal Education, and it may make recommendations to the Association, which shall be referred by the Association to the Committee on Legal Education.

The proceedings of the Section may be published from time to time, at the discretion of the Executive Committee, and on the recommendation of the Committee on Publications.

All members of the Association, who desire, may enroll themselves as members of the Section, and persons not eligible for membership in the Association, but who are engaged in teaching law, may be admitted to the privilege of the floor at any meeting of the Section, by vote of the Section.

The Section shall be organized by the appointment of a Chairman and Secretary, at its first session; and a Chairman and Secretary shall thereafter be elected annually by the Section.

A Section of the Association, to be known as the Section of Patent, Trade-Mark* and Copyright Law, is hereby established, which shall meet annually in connection with the meeting of the Association, but not during such hours as the Association is in session.

* As amended, 1899.

Its object shall be to discuss the subject of the law and practice relating to patents, trade-marks and copyrights. It may report to the Association ; and matters relating to patents, trade-marks and copyrights may be referred to it.

The proceedings of the Section may be published from time to time, at the discretion of the Executive Committee, and on the recommendation of the Committee on Publications.

All members of the Association, who desire, may enroll themselves as members of the Section.

The Section shall be organized by the appointment of a Chairman and Secretary by the Section, and a Chairman and Secretary shall be thereafter annually elected by the Section for the year commencing upon the final adjournment of its meeting.

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ALPHABETICAL LIST OF MEMBERS.

1900—1901.

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BORCHERLING, CHARLES,	Newark, N. J.
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BOTTUM, E. H.,	Milwaukee, Wis.
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BUDD, HENRY,	Philadelphia, Pa.
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BUIST, HENRY,	Charleston, S. C.
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BURKE, JOHN F.,	Milwaukee, Wis.
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BURKET, JACOB F.,	Findlay, Ohio.
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BURNHAM, TELFORD,	Chicago, Ill.
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BUTLER, HUGH,	Denver, Col.
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BUTTON, WM. H.,	Middlebury, Vt.
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CANN, J. FERBIS,	Savannah, Ga.
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CARR, WILLIAM F.,	Cleveland, Ohio.
CARROLL, WILLIAM H.,	Memphis, Tenn.
CARROLL, WILLIAM J.,	Omaha, Neb.
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CARSON, JOHN F.,	Indianapolis, Ind.
CARTER, CASSIUS,	San Diego, Cal.
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CARTER, WALTER S.,	New York, N. Y.
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CHRISTIE, HARVEY L.,	St. Louis, Mo.
CHRISTY, GEORGE H.,	Pittsburg, Pa.
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CLARK, WILLIAM H.,	Dallas, Texas.
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DYRENFORTH, WILLIAM H.,	Chicago, Ill.

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FISHER, WILLIAM A.,	Baltimore, Md.
FISHER, WILLIAM RIGHTER,	Philadelphia, Pa.
FISSE, WILLIAM E.,	St. Louis, Mo.
FITZGERALD, JOHN C.,	Grand Rapids, Mich.
FLANDERS, JAMES G.,	Milwaukee, Wis.
FLANDRAU, CHARLES E.,	St. Paul, Minn.
FLEISCHMANN, SIMON,	Buffalo, N. Y.

FLEMING, LORENZO D.,	New York, N. Y.
FLETCHER, D. U.,	Jacksonville, Fla.
FLORANCE, ERNEST T.,	New Orleans, La.
FLOWER, JAMES M.,	Chicago, Ill.
FOLLETT, ALFRED DEWEY,	Marietta, Ohio.
FOLLETT, MARTIN DEWEY,	Marietta, Ohio.
FORBES, FRANCIS,	New York, N. Y.
FORMAN, BENJAMIN RICE,	New Orleans, La.
FORSTER, GEORGE M.,	Spokane, Wash.
FORT, J. FRANKLIN,	Newark, N. J.
FOSTER, ALFRED D.,	Boston, Mass.
FOSTER, CHARLES E.,	Washington, D. C.
FOSTER, REGINALD,	Boston, Mass.
FOSTER, ROGER,	New York, N. Y.
FOWLER, A. C.,	St. Louis, Mo.
FOWLER, BENJAMIN F.,	Cheyenne, Wyo.
FOX, AUSTEN G.,	New York, N. Y.
FOX, E. J.,	Easton, Pa.
FOX, JABEZ,	Boston, Mass.
FRALEY, JOSEPH C.,	Philadelphia, Pa.
FRASER, DANIEL,	Fowler, Ind.
FRAWLEY, THOMAS F.,	Eau Claire, Wis.
FRENCH, WILLIAM B.,	Boston, Mass.
FREY, PHILIP W.,	Evansville, Ind.
FRINK, J. S. H.,	Portsmouth, N. H.
FROST, EDWARD W.,	Milwaukee, Wis.
FULLER, CLIFFORD W.,	Cleveland, Ohio.
FULLER, GEORGE,	San Diego, Cal.
FULLER, HORACE W.,	Boston, Mass.
FURNES, WILLIAM ELIOT,	Chicago, Ill.
GAGER, EDWIN B.,	Derby, Conn.
GAINES, R. R.,	Austin, Texas.
GAITHER, GEORGE R, JR.,	Baltimore, Md.
GALLAGHER, CHARLES T.,	Boston, Mass.
GANS, EDGAR H.,	Baltimore, Md.
GANTT, JAMES B.,	Jefferson City, Mo.
GARFIELD, HARRY A.,	Cleveland, Ohio.
GARFIELD, JAMES R,	Cleveland, Ohio.
GARGAN, THOMAS J.,	Boston, Mass.
GARLAND, DAVID S.,	Northport, N. Y.
GARLAND, SPOTTSWOOD,	Wilmington, Del.
GARNETT, THEODORE S.,	Norfolk, Va.
GARRARD, LOUIS F.,	Columbus, Ga.
GARRETON, A. Q.,	Jersey City, N. J.
GARTSIDE, JOHN M.,	Chicago, Ill.

GAST, CHARLES E.,	Pueblo, Col.
GEYELIN, HENRY LAUSSAT,	Philadelphia, Pa.
GIBBONS, JOHN,	Chicago, Ill.
GIBBS, CLINTON B.,	Buffalo, N. Y.
GIBSON, JAMES,	Kansas City, Mo.
GIBSON, JAMES A.,	Los Angeles, Cal.
GIBSON, WILLIAM K.,	Riverside, Cal.
GIDDINGS, CHARLES,	Great Barrington, Mass.
GIFFORD, LIVINGSTON,	New York, N. Y.
GILBERT, GEORGE G.,	Shelbyville, Ky.
GILBERT, LYMAN D.,	Harrisburg, Pa.
GILLEN, WILLIAM W.,	Jamaica, N. Y.
GILLHAM, GEORGE,	Memphis, Tenn.
GILLIAM, MARSHALL M.,	Richmond, Va.
GILMORE, JAMES H.,	Marion, Va.
GILSON, N. S.,	Fond du Lac, Wis.
GLASGOW, WILLIAM A., JR.,	Roanoke, Va.
GLEASON, JOHN H.,	Albany, N. Y.
GOBLE, L. SPENCER,	Newark, N. J.
GOETCHIUS, HENRY R.,	Columbus, Ohio.
GOFF, FREDERICK H.,	Cleveland, Ohio.
GOODELL, EDWIN B.,	Montclair, N. J.
GOODELLE, WILLIAM P.,	Syracuse, N. Y.
GOODRICH, ADAMS A.,	Chicago, Ill.
GOODWIN, FRANK,	Boston, Mass.
GOULD, JOHN H.,	Delphi, Ind.
GOULD, ROBERT S.,	Austin, Texas.
GOULDER, HARVEY D.,	Cleveland, Ohio.
GRACE, H. H.,	West Superior, Wis.
GRAHAM, GEORGE S.,	Philadelphia, Pa.
GRANGER, MOSES M.,	Zanesville, Ohio.
GRANGER, SHERMAN M.,	Zanesville, Ohio.
GRANT, ALEXANDER, JR.,	Newark, N. J.
GRAVES, CHARLES A.,	Lexington, Va.
GRAY, GEORGE,	Wilmington, Del.
GRAY, JOHN C.,	Boston, Mass.
GREELY, ARTHUR P. (Washington, D. C.),	Concord, N. H.
GREEN, BENJAMIN W.,	Emporium, Pa.
GREENE, CHARLES J.,	Omaha, Neb.
GREENE, FREDERICK L.,	Greenfield, Mass.
GREENE, GEORGE G.,	Green Bay, Wis.
GREGG, MAURICE,	Baltimore, Md.
GREGORY, CHARLES NOBLE,	Madison, Wis.
GREGORY, ROGER,	Richmond, Va.
GREGORY, STEPHEN S.,	Chicago, Ill.

GREY, SAMUEL H.,	Camden, N. J.
GRIFFIN, S.,	Bedford City, Va.
GRIFFITH, WARREN G.,	Philadelphia, Pa.
GRIGGS, JOHN W. (Washington, D. C.),	Paterson, N. J.
GRINNELL, W. MORTON,	New York, N. Y.
GROOT, GEORGE A.,	Cleveland, Ohio.
GROSSCUP, PETER S.,	Chicago, Ill.
GRUBB, IGNATIUS C.,	Wilmington, Del.
GRUBBS, CHARLES, S.,	Louisville, Ky.
GUERNSEY, NATHANIEL T.,	Des Moines, Ia.
GUNCKEL, LEWIS B.,	Dayton, Ohio.
GUNNISON, ROYAL A.,	Binghamton, N. Y.
GUNTER, JULIUS C.,	Trinidad, Col.
GUTHRIE, GEORGE W.,	Pittsburg, Pa.
GUTHRIE, WILLIAM D.,	New York, N. Y.
GUY, JACKSON,	Richmond, Va.
HADDEN, ALEXANDER,	Cleveland, Ohio.
HAGERMAN, FRANK,	Kansas City, Mo.
HAGERMAN, JAMES,	St. Louis, Mo.
HAGNER, ALEXANDER B.,	Washington, D. C.
HAHN, WILLIAM J.,	Minneapolis, Minn.
HALE, CLARENCE,	Portland, Me.
HALL, BORDMAN,	Boston, Mass.
HALL, EDMUND,	Detroit, Mich.
HALL, HARRY H.,	New Orleans, La.
HALL, MATTHEW A.,	Omaha, Neb.
HALL, THOMAS L.,	Chicago, Ill.
HALL, WILLIAM M., JR.,	Pittsburg, Pa.
HALLETT, MOSES,	Denver, Col.
HAMILL, HUGH H.,	Trenton, N. J.
HAMILTON, ALEXANDER,	Petersburg, Va.
HAMILTON, GEORGE EARNEST,	Washington, D. C.
HAMLIN, CHARLES,	Bangor, Me.
HAMLIN, HANNIBAL E.,	Ellsworth, Me.
HAMLIN, JOHN H.,	Chicago, Ill.
HAMMOND, EDWIN P.,	LaFayette, Ind.
HAMMOND, WM. S.,	Altoona, Pa.
HANCHETT, BENTON,	Saginaw, W. S., Mich.
HANFORD, C. H.,	Seattle, Wash.
HANSEN, OTTO R.,	Milwaukee, Wis.
HARDIN, JOHN R.,	Newark, N. J.
HARDING, CHARLES F.,	Chicago, Ill.
HARGEST, WILLIAM M.,	Harrisburg, Pa.
HARKLESS, JAMES H.,	Kansas City, Mo.
HARLAN, HENRY D.,	Baltimore, Md.

HARLEY, CHARLES F.,	Baltimore, Md.
HARMON, HENRY A.,	Detroit, Mich.
HARMON, JUDSON,	Cincinnati, Ohio.
HARMON, R. L.,	Montgomery, Ala.
HARPER, JACOB CHANDLER,	Cincinnati, Ohio.
HARRIMAN, EDWARD AVERY,	Chicago, Ill.
HARRIS, STEPHEN R.,	Bucyrus, Ohio.
HARRIS, W. O.,	Louisville, Ky.
HARRISON, BENJAMIN,	Indianapolis, Ind.
HARRISON, GEORGE P.,	Opelika, Ala.
HARRISON, LYNDE,	New Haven, Conn.
HARRISON, RICHARD A.,	Columbus, Ohio.
HARRITY, WILLIAM F.,	Philadelphia, Pa.
HARSHA, WALTER S.,	Detroit, Mich.
HART, W. O.,	New Orleans, La.
HARTIGAN, MICHEL A.,	Hastings, Neb.
HARTSHORNE, CHARLES H.,	Jersey City, N. J.
HASKELL, FREDERICK F.,	Boston, Mass.
HATCH, REUBEN,	Grand Rapids, Mich.
HATTON, GOODRICH,	Portsmouth, Va.
HAWES, GILBERT RAY,	New York, N. Y.
HAWKESWORTH, R. W.,	New York, N. Y.
HAWKINS, GILBERT S.,	Bel Air, Md.
HAWKINS, ROSCOE O.,	Indianapolis, Ind.
HAYDEN, GEORGE,	Ishpeming, Mich.
HAYDEN, JAMES H.,	Washington, D. C.
HAYES, THOMAS G.,	Baltimore, Md.
HAYNE, ROBERT Y.,	San Francisco, Cal.
HEBARD, FREDERIC S.,	Chicago, Ill.
HEERMANCE, MARTIN,	Poughkeepsie, N. Y.
HEIGES, GEORGE W.,	York, Pa.
HELM, JAMES P.,	Louisville, Ky.
HEMENWAY, ALFRED,	Boston, Mass.
HEMPHILL, JOSEPH,	West Chester, Pa.
HENDERSON, J. H.,	Indianola, Ia.
HENDERSON, JOHN M.,	Cleveland, Ohio.
HENDERSON, ROBERT R.,	Cumberland, Md.
HENRY, WM. WIRT,	Richmond, Va.
HENSEL, W. U.,	Lancaster, Pa.
HEPBURN, CHARLES M.,	Cincinnati, Ohio.
HERENDEEN, EDWARD G.,	Elmira, N. Y.
HERNDON, JOHN C.,	Prescott, Arizona.
HEROD, WILLIAM PIRTLE,	Indianapolis, Ind.
HERRICK, G. E.,	Cleveland, Ohio.

HERRICK, JOHN J.,	Chicago, Ill.
HERRINGTON, CASS E.,	Denver, Col.
HIESTER, ISAAC,	Reading, Pa.
HIGGINBOTHAM, C. C.,	Buckhannon, W. Va.
HIGGINS, ANTHONY,	Wilmington, Del.
HIGGINS, FRANK M.,	Limerick, Me.
HILL, JOSEPH M.,	Fort Smith, Ark.
HILL, LYSANDER,	Chicago, Ill.
HILL, THOMAS N.,	Halifax, N. C.
HILL, WALTER B.,	Athens, Ga.
HILLES, WILLIAM S.,	Wilmington, Del.
HINE, LEMON G.,	Washington, D. C.
HINES, CLARK B.,	Belleville, Ohio.
HINKLEY, JOHN,	Baltimore, Md.
HISKY, THOMAS FOLEY,	Baltimore, Md.
HITCHCOCK, HENRY,	St. Louis, Mo.
HOADLY, GEORGE,	New York, N. Y.
HOADLY, GEORGE, JR.,	Cincinnati, Ohio.
HOGAN, JOHN W.,	Providence, R. I.
HOLDOM, JESSE,	Chicago, Ill.
HOLMES, DANIEL B.,	Kansas City, Mo.
HOPKINS, E. H.,	Cleveland, Ohio.
HORNBLOWER, WILLIAM B.,	New York, N. Y.
HORNER, JOHN J.,	Helena, Ark.
HOTCHKISS, WILLIAM HORACE,	Buffalo, N. Y.
HOULTON, SAMUEL C.,	Baltimore, Md.
HOWARD, GEORGE H.,	Washington, D. C.
HOWE, ELMER P.,	Boston, Mass.
HOWE, WILLIAM WIRT,	New Orleans, La.
HOWLAND, PAUL,	Cleveland, Ohio.
HOWRY, CHARLES B. (Washington, D. C.),	Oxford, Miss.
HOWSON, CHARLES,	Philadelphia, Pa.
HOYE, STEPHEN M.,	Brooklyn, N. Y.
HOYT, HIRAM J.,	Muskegon, Mich.
HOYT, JAMES H.,	Cleveland, Ohio.
HUBBARD, HARRY,	New York, N. Y.
HUBBARD, THOMAS H.,	New York, N. Y.
HUBBARD, WILLIAM P.,	Wheeling, W. Va.
HUEY, SAMUEL B.,	Philadelphia, Pa.
HUFFCUT, E. W.,	Ithaca, N. Y.
HUGHES, CHARLES E.,	New York, N. Y.
HUGHES, CHARLES J., JR.,	Denver, Col.
HUGHES, E. C.,	Seattle, Wash.
HUGHES, ROBERT M.,	Norfolk, Va.

HUGHES, THOMAS,	Baltimore, Md.
HULL, GEORGE S.,	Buffalo, N. Y.
HUNSAKER, WILLIAM J.,	Los Angeles, Cal.
HUNT, CARLETON,	New Orleans, La.
HUNT, FREEMAN,	Boston, Mass.
HUNT, SAMUEL F.,	Cincinnati, Ohio.
HUNTER, CHARLES F.,	Milwaukee, Wis.
HUNTER, ERNEST HOWARD,	Philadelphia, Pa.
HURD, HARVEY B.,	Chicago, Ill.
HURLBUTT, HENRY F.,	Lynn, Mass.
HUTCHINS, HARRY B.,	Ann Arbor, Mich.
HUTCHINSON, JOHN F.,	Parkersburg, W. Va.
HYDE, WESLEY W.,	Grand Rapids, Mich.
HYDE, WILLIAM W.,	Hartford, Conn.
INGALSBE, GRENVILLE M.,	Sandy Hill, N. Y.
INGERSOLL, HENRY H.,	Knoxville, Tenn.
INGLER, FRANCIS M.,	Indianapolis, Ind.
ISAACS, M. S.,	New York, N. Y.
ISHAM, EDWARD S.,	Chicago, Ill.
JACKSON, ROBERT F.,	Nashville, Tenn.
JACKSON, WILLIAM H.,	Cincinnati, Ohio.
JACOB, EPHRAIM A.,	New York, N. Y.
JACOBES, JAMES A.,	Pontiac, Mich.
JAHN, CARL G.,	Columbus, Ohio.
JAMES, FRANCIS B.,	Cincinnati, Ohio.
JAMESON, OVID B.,	Indianapolis, Ind.
JANUARY, WILLIAM L.,	Detroit, Mich.
JAYNE, H. LABARRE,	Philadelphia, Pa.
JEFFRIES, MALCOLM G.,	Janesville, Wis.
JELKE, FERDINAND, JR.,	Cincinnati, Ohio.
JELLINEK, EDWARD L.,	Buffalo, N. Y.
JENCKES, THOMAS A.,	Providence, R. I.
JENKINS, JAMES G.,	Milwaukee, Wis.
JENNINGS, ANDREW J.,	Fall River, Mass.
JEWETT, JOHN N.,	Chicago, Ill.
JOHNSON, BENJAMIN N.,	Boston, Mass.
JOHNSON, HOMER H.,	Cleveland, Ohio.
JOHNSON, SIMEON M.,	Cincinnati, Ohio.
JOHNSTON, THOMAS J.,	New York, N. Y.
JOHNSTONE, GEORGE,	Newberry, S. C.
JOLINE, ADRIAN H.,	New York, N. Y.
JONES, ASAH EL W.,	Youngstown, Ohio.
JONES, BURR W.,	Madison, Wis.
JONES, JAMES M.,	Cleveland, Ohio.
JONES, J. LEVERING,	Philadelphia, Pa.

JONES, LEONARD A.,	Boston, Mass.
JONES, RANKIN D.,	Cincinnati, Ohio.
JONES, RICHMOND L.,	Reading, Pa.
JONES, W. MARTIN,	Rochester, N. Y.
JOSEPH, EMIL,	Cleveland, Ohio.
JOSS, FREDERICK A.,	Indianapolis, Ind.
JUDSON, FREDERICK N.,	St. Louis, Mo.
JUNKIN, FRANCIS T. A.,	Chicago, Ill.
KARNES, J. V. C.,	Kansas City, Mo.
KAY, JAMES I.,	Pittsburg, Pa.
KAY, WILLIAM E.,	Brunswick, Ga.
KEASBEY, EDWARD Q.,	Newark, N. J.
KEATOR, JOHN F.,	Philadelphia, Pa.
KEENER, WILLIAM A.,	New York, N. Y.
KEENEY, WILLARD F.,	Grand Rapids, Mich.
KEHR, EDWARD C.,	St. Louis, Mo.
KEITH, IRA B.,	Lynn, Mass.
KELLEN, WILLIAM V.,	Boston, Mass.
KELLOGG, L. LAFLIN,	New York, N. Y.
KELLOGG, STEPHEN W.,	Waterbury, Conn.
KELLY, RONALD,	Detroit, Mich.
KENNA, EDWARD D.,	Chicago, Ill.
KENNEDY, CRAMMOND,	Washington, D. C.
KENNEDY, JOHN C.,	Boston, Mass.
KENNON, NEWELL K.,	St. Clairsville, Ohio.
KENNY, EDWARD,	Newark, N. J.
KENT, CHARLES A.,	Detroit, Mich.
KENYON, WILLIAM H.,	New York, N. Y.
KERN, JOHN W.,	Indianapolis, Ind.
KERNAN, THOMAS J.,	Baton Rouge, La.
KERWIN, J. C.,	Neenah, Wis.
KETCHAM, WILLIAM A.,	Indianapolis, Ind.
KIDDLE, ALFRED W.,	New York, N. Y.
KILVERT, THOMAS,	New York, N. Y.
KING, GEORGE A.,	Washington, D. C.
KING, S. H.,	St. Louis, Mo.
KINGSLEY, WILLARD,	Grand Rapids, Mich.
KINKAID, M. P.,	O'Neill, Neb.
KINNE, EDWARD D.,	Ann Arbor, Mich.
KINNE, L. G.,	Des Moines, Ia.
KIBLIN, J. PARKER,	New York, N. Y.
KITCHEL, STANLEY R.,	Minneapolis, Minn.
KLEIN, JACOB,	St. Louis, Mo.
KLINE, VIRGIL P.,	Cleveland, Ohio.
KLOCK, GEORGE S.,	Utica, N. Y.

KNAPP, HOWARD H.,	Bridgeport, Conn.
KNAPPEN, LOYAL E.,	Grand Rapids, Mich.
KNIGHT, CHARLES H.,	Exeter, N. H.
KNIGHT, JESSE,	Cheyenne, Wyo.
KNIGHT, W. J.,	Dubuque, Ia.
KNOTT, A. LEO,	Baltimore, Md.
KNOX, CHARLES H.,	New York, N. Y.
KNOX, P. C.,	Pittsburg, Pa.
KOHN, AARON,	Louisville, Ky.
KRAUTHOFF, L. C.,	Chicago, Ill.
KRETZINGER, GEORGE W.,	Chicago, Ill.
KRUTTSCHNITT, ERNEST B.,	New Orleans, La.
KULP, GEORGE B.,	Wilkesbarre, Pa.
LACEY, JOHN W.,	Cheyenne, Wyo.
LACKNER, FRANCIS,	Chicago, Ill.
LADD, BABSON S.,	Boston, Mass.
LADD, NATH. W.,	Boston, Mass.
LADD, SANFORD B.,	Kansas City, Mo.
LAMAR, JOSEPH R.,	Augusta, Ga.
LAMB, SAMUEL O.,	Greenfield, Mass.
LAMBERT, TAILMADGE A.,	Washington D. C.
LAMBERT, WILTON J.,	Washington, D. C.
LAMBERTON, C. L.,	New York, N. Y.
LAMBERTON, WILLIAM B.,	Harrisburg, Pa.
LANCASTER, CHARLES C.,	Washington, D. C.
LANCASTER, JOSEPH CAMPBELL,	Philadelphia, Pa.
LANNING, WILLIAM M.,	Trenton, N. J.
LARNER, JOHN B.,	Washington, D. C.
LATHROP, GARDINER,	Kansas City, Mo.
LAWRENCE, JAMES,	Cleveland, Ohio.
LAWSON, JOHN D.,	Columbia, Mo.
LAWTON, ALEXANDER R.,	Savannah, Ga.
LEA, OVERTON,	Nashville, Tenn.
LEAKEN, WILLIAM R.,	Savannah, Ga.
LEAKIN, J. WILSON,	Baltimore, Md.
LEAR, HENRY,	Doylestown, Pa.
LEAVITT, JOHN BROOKS,	New York, N. Y.
LECKIE, A. E. L.,	Washington, D. C.
LEE, BLAIR,	Washington, D. C.
LEE, BLEWETT,	Chicago, Ill.
LEGÈNDRE, JAMES,	New Orleans, La.
LEHMAN, FRED. W.,	St. Louis, Mo.
LENAHAN, JOHN T.,	Wilkesbarre, Pa.
LESH, U. S.,	Huntington, Ind.
LEVINSON, S. O.,	Chicago, Ill.

LEVIS, HOWARD C.,	Schenectady, N. Y.
LEWENTHAL, A., JR.,	Cleveland, Ohio.
LEWIS, FRANCIS D.,	Philadelphia, Pa.
LEWIS, H. M.,	Madison, Wis.
LEWIS, LUNSFORD L.,	Richmond, Va.
LEWIS, W. DRAPER,	Philadelphia, Pa.
LIBBY, CHARLES F.,	Portland, Me.
LIDDON, BENJ. S.,	Pensacola, Fla.
LIGHTNER, CLARENCE A.,	Detroit, Mich.
LILLIBRIDGE, WILLARD M.,	Detroit, Mich.
LINDSAY, WILLIAM,	Frankfort, Ky.
LINDSLEY, PHILIP,	Dallas, Texas.
LIONBERGER, ISAAC H.,	St. Louis, Mo.
LITTLEFIELD, CHARLES E.,	Rockland, Me.
LOCKE, JOSEPH A.,	Portland, Me.
LOCKWOOD, VIRGIL H.,	Indianapolis, Ind.
LOESCH, FRANK J.,	Chicago, Ill.
LOGAN, JAMES A.,	Philadelphia, Pa.
LOGAN, WALTER S.,	New York, N. Y.
LONDON, ALEXANDER T.,	Birmingham, Ala.
LORE, CHARLES B.,	Wilmington, Del.
LOVELAND, FRANK O.,	Cincinnati, Ohio.
LOWDEN, FRANK O.,	Chicago, Ill.
LOWNDES, LLOYD,	Cumberland, Md.
LUDWIG, JOHN C.,	Milwaukee, Wis.
LUNT, HORACE G.,	Colorado Springs, Col.
LYON, ADRIAN,	Perth Amboy, N. J.
MACFARLAND, W. W.,	New York, N. Y.
MACK, JULIAN W.,	Chicago, Ill.
MACKALL, THOMAS B.,	Baltimore, Md.
MACKALL, WILLIAM W.,	Savannah, Ga.
MACKOY, WILLIAM H.,	Cincinnati, Ohio.
MACPHERSON, ERNEST,	Louisville, Ky.
MADDOX, SAMUEL,	Washington, D. C.
MADIGAN, JOHN B.,	Houlton, Me.
MADILL, GEORGE A.,	St. Louis, Mo.
MAFFETT, JAMES T.,	Clarion, Pa.
MAHONEY, TIMOTHY J.,	Omaha, Neb.
MALONE, JAMES H.,	Memphis, Tenn.
MALONE, THOS. H.,	Nashville, Tenn.
MANDERSON, CHARLES F.,	Omaha, Neb.
MANNING, WILLIAM J.,	Chicago, Ill.
MARBURY, WILLIAM L.,	Baltimore, Md.
MARSH, ALBERT D.,	Nashville, Tenn.
MARR, ROBERT H., JR.,	New Orleans, La.

MARSHALL, BURWELL K.,	Louisville, Ky.
MARTIN, FRANCIS,	Falls City, Neb.
MARTIN, HORACE H.,	Chicago, Ill.
MARTIN, J. WILLIS,	Philadelphia, Pa.
MARTINDALE, CHARLES,	Indianapolis, Ind.
MARTYN, CHAUNCEY W.,	Chicago, Ill.
MASON, R., JOHN T.,	Baltimore, Md.
MASSEY, LOUIS C.,	Orlando, Fla.
MATHER, ROBERT,	Chicago, Ill.
MATTHEWS, C. BENTLEY,	Cincinnati, Ohio.
MAURO, PHILIP,	Washington, D. C.
MAXWELL, LAWRENCE, JR.,	Cincinnati, Ohio.
MAY, HENRY F.,	Denver, Col.
MAYHEW, ALEXANDER E.,	Wallace, Idaho.
MECHEM, FLOYD R.,	Ann Arbor, Mich.
MEDDAUGH, ELIJAH W.,	Detroit, Mich.
MELDRIM, P. W.,	Savannah, Ga.
MELOY, WILLIAM A.,	Washington, D. C.
MERCER, GEORGE GLUYAS,	Philadelphia, Pa.
MERCUR, RODNEY A.,	Towanda, Pa.
MERRICK, CHARLES D.,	Parkersburg, W. Va.
MERRICK, EDWIN T.,	New Orleans, La.
MERRICK, GEORGE PECK,	Chicago, Ill.
MERRILL, JOHN HOUSTON,	Philadelphia, Pa.
MERRILL, JOSEPH HANSELL,	Thomasville, Ga.
MERVINE, NICHOLAS P.,	Altoona, Pa.
MESTREZAT, S. LESLIE,	Uniontown, Pa.
MICHENER, L. T.,	Washington, D. C.
MILBURN, JOHN G.,	Buffalo, N. Y.
MILES, JOSHUA W.,	Princess Anne, Md.
MILLER, AUGUSTUS S.,	Providence, R. I.
MILLER, B. K.,	Milwaukee, Wis.
MILLER, CHARLES W.,	Goshen, Ind.
MILLER, E. SPENCER,	Philadelphia, Pa.
MILLER, FRANK H.,	Augusta, Ga.
MILLER, FRANK H., JR.,	Augusta, Ga.
MILLER, GEORGE P.,	Milwaukee, Wis.
MILLER, JOHN S.,	Chicago, Ill.
MILLER, N. DUBOIS,	Philadelphia, Pa.
MILLER, PEYTON F.,	Albany, N. Y.
MILLER, T. S.,	Dallas, Texas.
MILLER, WILLIAM J.,	Washington, D. C.
MILLER, WILLIAM K.,	Augusta, Ga.
MILLER, W. W.,	New York, N. Y.
MILLIKEN, JOHN D.,	McPherson, Kan.

MILNOR, M. CLEILAND,	New York, N. Y.
MITCHELL, CHARLES E.,	New York, N. Y.
MITCHELL, JOHN H.,	La Plata, Md.
MOFFIT, JOHN T.,	Tipton, Ia.
MONROE, CHARLES,	Los Angeles, Cal.
MONTGOMERY, CARROLL S.,	Omaha, Neb.
MONTGOMERY, M. A.,	Oxford, Miss.
MONTGOMERY, OSCAR H.,	Seymour, Ind.
MONTGOMERY, ROBERT M.,	Lansing, Mich.
MOORE, JOHN BASSETT,	New York, N. Y.
MOORE, JOSEPH B.,	Lansing, Mich.
MOORE, WILLIAM A.,	Detroit, Mich.
MOORES, CHARLES W.,	Indianapolis, Ind.
MOORES, MERRILL,	Indianapolis, Ind.
MOOT, ADELBERT,	Buffalo, N. Y.
MORAN, THOMAS A,	Chicago, Ill.
MORDECAI, T. MOULTRIE,	Charleston, S. C.
MORGAN, CHARLES E., JR.,	Philadelphia, Pa.
MORGAN, RANDAL,	Philadelphia, Pa.
MORRIS, HOWARD,	Milwaukee, Wis.
MORRIS, JOHN JR.,	Ft. Wayne, Ind.
MORRIS, M. F.,	Washington, D. C.
MORRIS, NATHAN,	Indianapolis, Ind.
MORRIS, THOMAS J.,	Baltimore, Md.
MORRISON, ROBERT E.,	Prescott, Ariz.
MORSE, A. PORTER,	Washington, D. C.
MORSE, GODFREY,	Boston, Mass.
MORSE, ROBERT M.,	Boston, Mass.
MORSE, WALDO G.,	New York, N. Y.
MORTON, J. R.,	Lexington, Ky.
MOSES, ADOLPH,	Chicago, Ill.
MUHLENBERG, HENRY A.,	Reading, Pa.
MULLIN, EUGENE,	Bradford City, Pa.
MULLIN, MICHAEL A.,	Baltimore, Md.
MUNFORD, BEVERLEY B.,	Richmond, Va.
MUNGER, W. H.,	Fremont, Neb.
MUNROE, WILLIAM A.,	Boston, Mass.
MUNSON, C. LARUE,	Williamsport, Pa.
MUSGRAVE, HARRISON,	Chicago, Ill.
MYERS, JAMES J.,	Boston, Mass.
MYERS, NATHANIEL,	New York, N. Y.
MYERS, QUINCY A.,	Logansport, Ind.
MCALLISTER, HALL,	San Francisco, Cal.
MCAHPIN, HENRY,	Savannah, Ga.
MCCAMMON, JOSEPH K.,	Washington, D. C.

MCCARTER, ROBERT H.,	Newark, N. J.
MCCARTER, THOMAS N.,	Newark, N. J.
MCCARTHY, HENRY J.,	Philadelphia, Pa.
MCCARTHY, J. J.,	Dubuque, Ia.
MCCLAIN, EMLIN,	Iowa City, Ia.
MCCLELLAN, THOMAS N.,	Montgomery, Ala.
MCCCLINTOCK, ANDREW H.,	Wilkesbarre, Pa.
MCCLOSKEY, BERNARD,	New Orleans, La.
MCCLUNG, WM. H.,	Pittsburg, Pa.
MCCLURE, HARROLD M.,	Lewisburg, Pa.
MCCOMAS, LOUIS E.,	Hagerstown, Md.
MCCONLOGUE, JAMES H.,	Mason City, Ia.
MCCOOK, JOHN J.,	New York, N. Y.
MCCORDIC, ALFRED E.,	Chicago, Ill.
MCCORMICK, HENRY C.,	Williamsport, Pa.
MCCRARY, A. J.,	Binghamton, N. Y.
MCCULLOUGH, JOHN G.,	No. Bennington, Vt.
MCDERMOTT, EDWARD J.,	Louisville, Ky.
MCDONALD, J. WADE,	San Diego, Cal.
MCDONOUGH, JAMES B.,	Fort Smith, Ark.
MCELODY, JOHN H.,	Chicago, Ill.
MCEVOY, JOHN W.,	Lowell, Mass.
MCGARRY, THOMAS F.,	Grand Rapids, Mich.
MCGILL, J. NOTA,	Washington, D. C.
MCGREGOR, MALCOLM,	Detroit, Mich.
MCGUINNESS, EDWIN D.,	Providence, R. I.
MCHUGH, WILLIAM D.,	Omaha, Neb.
MCINTOSH, JAMES H.,	Omaha, Neb.
MCKENNEY, FREDERIC D.,	Washington, D. C.
MCKEIGHAN, JOHN E.,	St. Louis, Mo.
MCKINLEY, WILLIAM (Washington, D. C.),	Canton, Ohio.
MCKINNEY, WILLIAM M.,	Northport, N. Y.
MCLEAN, DONALD,	New York, N. Y.
MCLEOD, W. D.,	Kansas City, Mo.
MCLUD, J. W.,	Little Rock, Ark.
MCMAHON, J. SPRIGG,	Dayton, Ohio.
McMILLAN, JAMES H.,	Detroit, Mich.
McNULTY, WILLIAM D. (New York, N. Y.),	Saratoga Springs, N. Y.
MCRÆ, WILLIAM P.,	Petersburg, Va.
McWHORTER, HAMILTON,	Lexington, Ga.
NAGEL, CHARLES,	St. Louis, Mo.
NEEDHAM, CHARLES W.,	Washington, D. C.
NEW, ALEXANDER,	Kansas City, Mo.
NEWBERGER, LOUIS,	Indianapolis, Ind.
NEWMAN, EMILE,	Savannah, Ga.

NEWTON, HENRY G.,	New Haven, Conn.
NICHOLS, GEORGE L.,	New York, N. Y.
NICHOLS, H. S. P.,	Philadelphia, Pa.
NICHOLSON, JOHN R.,	Dover, Del.
NICOLSON, JOHN, JR.,	New York, N. Y.
NIELDS, BENJAMIN,	Wilmington, Del.
NIELDS, JOHN P.,	Wilmington, Del.
NOBLE, JOHN W.,	St. Louis, Mo.
NOEL, JAMES W.,	Indianapolis, Ind.
NORRIS, MARK,	Grand Rapids, Mich.
NORRIS, MYRON A.,	Youngstown, Ohio.
NORTH, E. D.,	Lancaster, Pa.
NORTH, HUGH M.,	Columbia, Pa.
NORTON, CHARLES P.,	Buffalo, N. Y.
O'BRIEN, THOMAS J.,	Grand Rapids, Mich.
O'DONNELL, THOMAS J.,	Denver, Col.
OFFIELD, CHARLES K.,	Chicago, Ill.
OGDEN, LEWIS M.,	Milwaukee, Wis.
OGLESBEE, ROLLA B.,	Plymouth, Ind.
OLNEY, RICHARD,	Boston, Mass.
OPDYKE, WILLIAM S.,	New York, N. Y.
ORDRONAUX, JOHN,	New York, N. Y.
ORTON, PHILO A.,	Darlington, Wis.
OSGOOD, HOWARD L.,	Rochester, N. Y.
OSTRANDER, RUSSELL C.,	Lansing, Mich.
OTIS, EPHRAIM A.,	Chicago, Ill.
OTIS, GEORGE E.,	San Bernardino, Cal.
OTTOFY, L. FRANK,	St. Louis, Mo.
OWENS, GEORGE W.,	Savannah, Ga.
PADDOCK, GEORGE L.,	Chicago, Ill.
PAGE, GEORGE T.,	Peoria, Ill.
PAGE, HENRY,	Princess Anne, Md.
PAGE, ROSEWELL,	Richmond, Va.
PAGE, THOMAS NELSON,	Washington, D. C.
PALMER, HENRY W.,	Wilkesbarre, Pa.
PALMER, TRUMAN F.,	Monticello, Ind.
PARKER, ALTON B.,	Kingston, N. Y.
PARKER, CORTLANDT,	Newark, N. J.
PARKER, EDMUND M.,	Boston, Mass.
PARKER, FREDERICK,	Freehold, N. J.
PARKER, ROBERT S.,	Bowling Green, Ohio.
PARKER, R. WAYNE,	Newark, N. J.
PARKHURST, JOHN G.,	Coldwater, Mich.
PARKINSON, ROBERT H.,	Chicago, Ill.
PARMENTER, ROSWELL A.,	Troy, N. Y.

PARSONS, HINDILL,	Schenectady, N. Y.
PARSONS, JAMES M.,	Rock Rapids, Ia.
PATTERSON, GEORGE S.,	Philadelphia, Pa.
PATTERSON, JOHN C.,	Marshall, Mich.
PATTERSON, JOHN H.,	Pontiac, Mich.
PATTERSON, LINDSAY,	Winston, N. C.
PATTERSON, M. R.,	Columbus, Ohio.
PATTERSON, ROSWELL H.,	Scranton, Pa.
PATTERSON, T. ELLIOTT,	Philadelphia, Pa.
PATTERSON, THOMAS,	Pittsburg, Pa.
PATTESON, S. S. P.,	Richmond, Va.
PATTON, JOHN,	Grand Rapids, Mich.
PAUL, A. C.,	Minneapolis, Minn.
PAYNE, JAMES G.,	Washington, D. C.
PAYSON, EDWARD P.,	Boston, Mass.
PEABODY, CHARLES A.,	New York, N. Y.
PEABODY, FRANCIS D.,	Columbus, Ga.
PEALE, S. R.,	Lock Haven, Pa.
PECK, GEORGE R.,	Chicago, Ill.
PECK, HIRAM D.,	Cincinnati, Ohio.
PENCE, ABRAM M.,	Chicago, Ill.
PENDLETON, EDWARD W.,	Detroit, Mich.
PENFIELD, W. L. (State Dep't, Washington, D.C.),	Auburn, Ind.
PENNYPACKER, CHARLES H.,	West Chester, Pa.
PENNYPACKER, SAMUEL W.,	Philadelphia, Pa.
PEPPER, GEORGE WHARTON,	Philadelphia, Pa.
PERELES, JAMES M.,	Milwaukee, Wis.
PERELES, THOMAS JEFFERSON,	Milwaukee, Wis.
PERHAM, FREDERIC E.,	New York, N. Y.
PERKINS, SAMUEL C.,	Philadelphia, Pa.
PERKINS, WILLIAM H.,	Baltimore, Md.
PERRY, R. ROSS, JR.,	Washington, D. C.
PERRY, WILLIAM C.,	Kansas City, Mo.
PETERS, JOHN A.,	Bangor, Me.
PETTIT, HORACE,	Philadelphia, Pa.
PETTY, ROBERT D.,	New York, N. Y.
PHELPS, CHARLES,	Rockville, Conn.
PHELPS, CHARLES E.,	Baltimore, Md.
PHILLIPS, M. C.,	Oshkosh, Wis.
PICKENS, SAMUEL O.,	Indianapolis, Ind.
PICKENS, WILLIAM A.,	Indianapolis, Ind.
PICKRELL, JOHN,	Richmond, Va.
PIERCE, EDWARD P.,	Fitchburg, Mass.
PIERCE, WINSLOW S.,	New York, N. Y.
PIKE, LOUIS H.,	Toledo, Ohio.

PILCHER, JAMES S.,	Nashville, Tenn.
PINGREY, D. H.,	Bloomington, Ill.
PINTARD, WILLIAM,	Red Bank, N. J.
PIRTLE, JAMES S.,	Louisville, Ky.
POE, JOHN PRENTISS,	Baltimore, Md.
POND, ASHLEY,	Detroit, Mich.
POTTER, CHARLES N.,	Cheyenne, Wyo.
POTTER, DEXTER B.,	Providence, R. I.
POTTER, FREDERICK,	New York, N. Y.
POWERS, FREDERICK A.,	Houlton, Me.
PRATT, WALLACE,	Kansas City, Mo.
PRENTIS, ROBERT R.,	Suffolk, Va.
PRICHARD, FRANK P.,	Philadelphia, Pa.
PRIME, RALPH E.,	Yonkers, N. Y.
PROCTOR, THOMAS W.,	Boston, Mass.
PRUSSING, EUGENE E.,	Chicago, Ill.
PRUDEN, WILLIAM D.,	Edenton, N. C.
PUTNAM, HARRINGTON,	New York, N. Y.
PUTNAM, HENRY W.,	Boston, Mass.
PUTNAM, WILLIAM L.,	Boston, Mass.
QUACKENBUSH, JAMES L.,	Buffalo, N. Y.
QUAIL, FRANK A.,	Cleveland, Ohio.
QUARLES, CHARLES,	Milwaukee, Wis.
QUARLES, JOSEPH V.,	Milwaukee, Wis.
QUARTON, WILLIAM B.,	Algona, Ia.
RADFORD, GEORGE W.,	Detroit, Mich.
RALSTON, JACKSON H.,	Washington, D. C.
RAMAGE, B. J.,	Sewanee, Tenn.
RANDALL, E. O.,	Columbus, Ohio.
RANNEY, FLETCHER,	Boston, Mass.
RANNEY, HENRY C.,	Cleveland, Ohio.
RAWLE, FRANCIS,	Philadelphia, Pa.
RAYMOND, JAMES H.,	Chicago, Ill.
RAYNOLDS, EDWARD V.,	New Haven, Conn.
REARDON, JOHN J.,	Williamsport, Pa.
REDDING, JOSEPH D.,	New York, N. Y.
REDDING, WILLIAM A.,	New York, N. Y.
REED, FRANK F.,	Chicago, Ill.
REED, MILTON,	Fall River, Mass.
REEVES, ALFRED G.,	New York, N. Y.
REINHARD, GEORGE L.,	Bloomington, Ind.
RHODES, FRANK V.,	Baltimore, Md.
RICH, BURDETTE A.,	Rochester, N. Y.
RICHARDS, HARRY S.,	Iowa City, Ia.
RICHARDSON, GEORGE F.,	Lowell, Mass.

RICHARDSON, W. K.,	Boston, Mass.
RICHBERG, JOHN C.,	Chicago, Ill.
RICHMOND, BENJAMIN, A.,	Cumberland, Md.
RIKER, ADRIAN,	Newark, N. J.
RINAHER, JOHN I.,	Carlinville, Ill.
RINEHART, C. D.,	Jacksonville, Fla.
RINER, JOHN A.,	Cheyenne, Wyo.
RITCHIE, JOHN,	Norfolk, Va.
RITSHER, EDWARD C.,	Chicago, Ill.
ROBB, BAMFORD A.,	Boise, Idaho.
ROBBINS, EDWARD D.,	Hartford, Conn.
ROBBINS, HENRY S.,	Chicago, Ill.
ROBERTS, GEORGE L.,	Boston, Mass.
ROBERTSON, C. D.,	Cincinnati, Ohio.
ROBINSON, RALPH,	Baltimore, Md.
ROBINSON, THOMAS H.,	Bel Air, Md.
ROBSON, FRANK E.,	Detroit, Mich.
ROELKER, WILLIAM G.,	Providence, R. I.
ROGERS, EDWARD H.,	New Haven, Conn.
ROGERS, ELMER E.,	Chicago, Ill.
ROGERS, GEORGE MILLS,	Chicago, Ill.
ROGERS, HENRY T.,	Denver, Col.
ROGERS, HENRY WADE,	New Haven, Conn.
ROGERS, PLATT,	Denver, Col.
ROGERS, ROBERT LYON,	Baltimore, Md.
ROGERS, WILLIAM P.,	Bloomington, Ind.
ROOT, ELIHU,	New York, N. Y.
ROSE, GEORGE B.,	Little Rock, Ark.
ROSE, JAMES E.,	Auburn, Ind.
ROSE, U. M.,	Little Rock, Ark.
ROSENTHAL, JULIUS,	Chicago, Ill.
ROST, EMILE,	New Orleans, La.
RUBENS, HARRY,	Chicago, Ill.
RUNNELLS, JOHN S.,	Chicago, Ill.
RUSSELL, ALFRED,	Detroit, Mich.
RUSSELL, CHARLES THEODORE,	Cambridge, Mass.
RUSSELL, EDWARD L.,	Mobile, Ala.
RUSSELL, HENRY,	Detroit, Mich.
RUSSELL, ISAAC F.,	New York, N. Y.
RUSSELL, TALCOTT H.,	New Haven, Conn.
RYON, WILLIAM W.,	Shamokin, Pa.
SALTZGABER, GAYLARD M.,	Van Wert, Ohio.
SAMS, CONWAY W.,	Baltimore, Md.
SAMUELS, SIDNEY L.,	Fort Worth, Texas.
SANBORN, JOHN B.,	St. Paul, Minn.

SANDERS, GEORGE A.,	Springfield, Ill.
SANDERS, JAMES U.,	Helena, Mont.
SANDERS, W. B.,	Cleveland, Ohio.
SANDERS, WILBUR F.,	Helena, Mont.
SANFORD, EDWARD T.,	Knoxville, Tenn.
SANFORD, ELISHA M.,	Prescott, Ariz.
SAULSBURY, WILLARD,	Wilmington, Del.
SAWYER, ALFRED P.,	Lowell, Mass.
SAYLER, JOHN RYNER,	Cincinnati, Ohio.
SAYLER, SAMUEL M.,	Huntington, Ind.
SCAIFE, LAURISTON L.,	Boston, Mass.
SCALLON, WILLIAM,	Butte, Mont.
SCHMUCKER, SAMUEL D.,	Baltimore, Md.
SCHNABEL, CHARLES J.,	Portland, Ore.
SCHOFIELD, WILLIAM,	Boston, Mass.
SCHOULER, JAMES,	Boston, Mass.
SCOTT, C. SUYDAM,	Lexington, Ky.
SCOTT, FRANK H.,	Chicago, Ill.
SCOTT, HOWARD B.,	Danbury, Conn.
SCOTT, JAMES L.,	Saratoga Springs, N. Y.
SEABROOK, PAUL E.,	Pineora, Ga.
SEAMAN, WILLIAM H.,	Sheboygan, Wis.
SEARLES, CHARLES E.,	Putnam, Conn.
SEATON, EMMETT,	Richmond, Va.
SEBREE, FRANK P.,	Kansas City, Mo.
SEEVERS, GEORGE W.,	Oskaloosa, Ia.
SEIBERT, WILLIAM N.,	New Bloomfield, Pa.
SELDEN, JOHN,	Washington, D. C.
SELLERS, EMORY B.,	Monticello, Ind.
SENEY, HENRY W.,	Toledo, Ohio.
SEYMOUR, GEORGE D.,	New Haven, Conn.
SEYMOUR, HENRY A.,	Washington, D. C.
SEYMOUR, HENRY H.,	Buffalo, N. Y.
SHACK, FERDINAND,	New York, N. Y.
SHAFROTH, JOHN F.,	Denver, Col.
SHAPLEY, RUFUS E.,	Philadelphia, Pa.
SHARP, GEORGE M.,	Baltimore, Md.
SHAW, R. K.,	Marietta, Ohio.
SHEEAN, JAMES B.,	Omaha, Neb.
SHEPARD, CHARLES E.,	Seattle, Wash.
SHEPARD, HARVEY N.,	Boston, Mass.
SHEPARD, RICHARD B.,	Salt Lake City, Utah.
SHEPARD, SETH,	Washington, D. C.
SHERIFF, ANDREW R.,	Chicago, Ill.
SHERLEY, SWAGAR,	Louisville, Ky.

SHERMAN, E. B.,	Chicago, Ill.
SHERWIN, JOHN C.,	Mason City, Ia.
SHERWOOD, ADIEL,	St. Louis, Mo.
SHIELDS, J. M.,	Pittsburg, Pa.
SHIPMAN, GEORGE M.,	Belvidere, N. J.
SHIRAS, GEORGE, JR.,	Pittsburg, Pa.
SHIRAS, OLIVER P.,	Dubuque, Ia.
SHUMWAY, MILTON A.,	Danielson, Conn.
SIEBECKER, ROBERT G.,	Madison, Wis.
SIMPSON, ALEXANDER, JR.,	Philadelphia, Pa.
SKELTON, WILLIAM B.,	Lewiston, Me.
SLABAUGH, W. W.,	Omaha, Neb.
SLOAN, DAVID W.,	Cumberland, Md.
SMEAD, A. D. B.,	Carlisle, Pa.
SMEDES, JOHN MARSHALL,	Cincinnati, Ohio.
SMITH, ALEXANDER L.,	Toledo, Ohio.
SMITH, ALONZO GREENE,	Indianapolis, Ind.
SMITH, BEVERLY W.,	Baltimore, Md.
SMITH, BURTON,	Atlanta, Ga.
SMITH, CHARLES B.,	Topeka, Kan.
SMITH, CHARLES W.,	Indianapolis, Ind.
SMITH, EDWIN BURRITT,	Chicago, Ill.
SMITH, EDWIN HARVIE,	Denver, Col.
SMITH, HENRY HYDE,	Boston, Mass.
SMITH, H. LINDALE,	Cleveland, Ohio.
SMITH, HOWARD B.,	Omaha, Neb.
SMITH, JEREMIAH,	Cambridge, Mass.
SMITH, JOHN SABINE,	New York, N. Y.
SMITH, LUTHER R.,	Washington, D. C.
SMITH, NELSON,	New York, N. Y.
SMITH, ROBERT WAVERLY,	Galveston, Texas.
SMITH, RUFUS B.,	Cincinnati, Ohio.
SMITH, SAM. FERRY,	San Diego, Cal.
SMITH, SIDNEY,	New York, N. Y.
SMITH, WALTER GEORGE,	Philadelphia, Pa.
SMITH, WILLIAM ALDEN,	Grand Rapids, Mich.
SMITH, WILLIS B.,	Richmond, Va.
SMYTHE, AUGUSTINE T.,	Charleston, S. C.
SNARE, JACOB,	Philadelphia, Pa.
SNOW, ALPHEUS H.,	Washington, D. C.
SNOW, DAVID W.,	Portland, Me.
SOMERVILLE, THOMAS H.,	University, Miss.
SPALDING, BURLEIGH FOLSOM,	Fargo, N. D.
SPEAR, WILLIAM T.,	Columbus, Ohio.
SPEIR, GILBERT M.,	New York, N. Y.

SPENCER, CHARLES C.,	Monticello, Ind.
SPENCER, SELDEN P.,	St. Louis, Mo.
SPOONER, CHARLES P.,	Milwaukee, Wis.
SPOONER, JOHN C.,	Madison, Wis.
SPRING, ARTHUR L.,	Boston, Mass.
SQUIRE, ANDREW,	Cleveland, Ohio.
STAAKE, WILLIAM H.,	Philadelphia, Pa.
STAFFORD, W. H.,	Chippewa Falls, Wis.
STANTON, LEWIS E.,	Hartford, Conn.
STARK, JOSHUA,	Milwaukee, Wis.
STARR, MERRITT,	Chicago, Ill.
STEARNS, CHARLES F.,	Providence, R. I.
STEELE, ROBERT W.,	Denver, Col.
STERNE, SIMON,	New York, N. Y.
STETSON, FRANCIS LYNDE,	New York, N. Y.
STEUART, ARTHUR,	Baltimore, Md.
STEVENS, BREEZE J.,	Madison, Wis.
STEVENS, FREDERICK W.,	Grand Rapids, Mich.
STEVENS, HIRAM F.,	St. Paul, Minn.
STEVENSON, ARCHIE M.,	Denver, Col.
STEVENSON, ELMER E.,	Indianapolis, Ind.
STEWART, GILBERT H.,	Columbus, Ohio.
STEWART, W. F. BAY,	York, Pa.
STILLMAN, HERMAN W.,	Chicago, Ill.
STILLMAN, THOMAS E.,	New York, N. Y.
STILLMAN, WALTER S.,	Council Bluffs, Ia.
STILLWELL, JAMES C.,	Philadelphia, Pa.
STIMSON, FREDERIC J.,	Boston, Mass.
STINESS, JOHN H.,	Providence, R. I.
STOCKBRIDGE, HENRY,	Baltimore, Md.
STOEHR, OSCAR,	Cincinnati, Ohio.
STOEVER, WILLIAM C.,	Philadelphia, Pa.
STONE, HENRY L.,	Louisville, Ky.
STONE, J. W.,	Marquette, Mich.
STOREY, MOORFIELD,	Boston, Mass.
STORROW, JAMES J., JR.,	Boston, Mass.
STOUGHTON, A. B.,	Philadelphia, Pa.
STRATTON, CHARLES E.,	Boston, Mass.
STRAWBRIDGE, WILLIAM C.,	Philadelphia, Pa.
STREETER, FRANK S.,	Concord, N. H.
STRONG, EDWARD W.,	Cincinnati, Ohio.
STROUT, SEWALL C.,	Portland, Me.
STUART, WILLIAM V.,	Lafayette, Ind.
SULLIVAN, JOHN D.,	Columbus, Ohio.
SULZBERGER, MAYER,	Philadelphia, Pa.

SWAIN, CHARLES M.,	Philadelphia, Pa.
SWAN, CHARLES H.,	Boston, Mass.
SWAN, ELBERT M.,	Rockport, Ind.
SWAN, WILLIAM W.,	Boston, Mass.
SWANEY, W. B.,	Chattanooga, Tenn.
SWASEY, GEORGE R.,	Boston, Mass.
SWAYNE, FRANCIS B. (New York, N. Y.),	Toledo, Ohio.
SWAYZE, FRANCIS J.,	Newark, N. J.
SWETTING, ERNEST V.,	Algona, Ia.
SWIFT, CHARLES M.,	Detroit, Mich.
SYMONDS, JOSEPH W.,	Portland, Me.
TAFT, ELIHU B.,	Burlington, Vt.
TAFT, WILLIAM H.,	Cincinnati, Ohio.
TAGGART, EDWARD,	Grand Rapids, Mich.
TAGGART, RUSH,	New York, N. Y.
TALCOTT, WILLIAM E.,	Cleveland, Ohio.
TAUSSIG, JAMES,	St. Louis, Mo.
TAYLOR, JOHN D.,	New York, N. Y.
TAYLOR, JOSEPH T.,	Philadelphia, Pa.
TAYLOR, R. S.,	Fort Wayne, Ind.
TAYLOR, WILLIAM L.,	Indianapolis, Ind.
TENNEY, DANIEL K.,	Madison, Wis.
TENNEY, HORACE KENT,	Chicago, Ill.
TERRELL, WILLIAM J.,	Burlington, N. J.
TERRY, J. W.,	Galveston, Texas.
THAYER, AMOS M.,	St. Louis, Mo.
THAYER, JAMES BRADLEY,	Cambridge, Mass.
THOM, ALFRED P.,	Norfolk, Va.
THOMAN, LEROY D.,	Chicago, Ill.
THOMAS, CHARLES S.,	Denver, Col.
THOMAS, WILLIAM S.,	Baltimore, Md.
THOMPSON, A. E.,	Oshkosh, Wis.
THOMPSON, R. H.,	Jackson, Miss.
THOMPSON, SEYMOUR D.,	New York, N. Y.
THOMPSON, WILLIAM B.,	St. Louis, Mo.
THORNTON, CHARLES S.,	Chicago, Ill.
THUM, WILLIAM WARWICK,	Louisville, Ky.
THURSTON, JOHN M.,	Omaha, Neb.
THURSTON, WILMARTH H.,	Providence, R. I.
TICHENOR, CHARLES O.,	Kansas City, Mo.
TIEDEMAN, CHRISTOPHER G.,	Brooklyn, N. Y.
TIGHE, AMBROSE,	St. Paul, Minn.
TILLINGHAST, JAMES,	Providence, R. I.
TILLMAN, A. M.,	Nashville, Tenn.
TILLMAN, GEORGE N.,	Nashville, Tenn.

TITUS, FRANK,	Kansas City, Mo.
TITUS, H. L.,	San Diego, Cal.
TODD, M. HAMPTON,	Philadelphia, Pa.
TOLLES, SHIRLEY H.,	Cleveland, Ohio.
TOMPKINS, HAMILTON B.,	New York, N. Y.
TOMPKINS, HENRY B.,	Atlanta, Ga.
TONEY, STERLING B.,	Louisville, Ky.
TORRANCE, DAVID,	Derby, Conn.
TOWLE, HENRY S.,	Chicago, Ill.
TOWNS, MIRABEAU L.,	Brooklyn, N. Y.
TOWNSEND, CHARLES C.,	Philadelphia, Pa.
TOWNSEND, WILLIAM K.,	New Haven, Conn.
TRABUE, E. F.,	Louisville, Ky.
TREMAIN, HENRY E.,	New York, N. Y.
TRICKETT, WILLIAM,	Carlisle, Pa.
TRIMBLE, J. MCD.,	Kansas City, Mo.
TRIPP, BARTLETT,	Yankton, S. D.
TRIPPET, OSCAR A.,	San Diego, Cal.
TROUP, JAMES O.,	Bowling Green, Ohio.
TROY, ALEXANDER,	Montgomery, Ala.
TUCKER, GEORGE F.,	Boston, Mass.
TUCKER, HENRY ST. GEORGE,	Lexington, Va.
TURNER, HERBERT B.,	New York, N. Y.
TURNER, JESSE,	Van Buren, Ark.
TURNER, SMITH D.,	Parkersburg, W. Va.
TURNER, W. J.,	Milwaukee, Wis.
TYLER, CHARLES H.,	Boston, Mass.
TYLER, MORRIS F.,	New Haven, Conn.
ULLMAN, FREDERIC,	Chicago, Ill.
URNER, MILTON G.,	Frederick, Md.
VAILLE, JOEL F.,	Denver, Col.
VANAMEE, WILLIAM,	Newburgh, N. Y.
VAN DEVANTER, WILLIS (Washington, D. C.),	Cheyenne, Wyo.
VAN DEVENTER, HORACE,	Knoxville, Tenn.
VAN DYKE, GEORGE D.,	Milwaukee, Wis.
VAN DYKE, WILLIAM D.,	Milwaukee, Wis.
VAN SLYCK, GEORGE F.,	New York, N. Y.
VAN SLYCK, GEORGE W.,	New York, N. Y.
VAN VECHTEN, A. V. W.,	New York, N. Y.
VAN WINKLE, W. W.,	Parkersburg, W. Va.
VENABLE, RICHARD M.,	Baltimore, Md.
VERTREES, J. J.,	Nashville, Tenn.
VIEU, HENRY A.,	New York, N. Y.
VILAS, EDWARD P.,	Milwaukee, Wis.
VILLARD, HAROLD G.,	New York, N. Y.
VOORHEES, JOHN H.,	Sioux Falls, S. D.

VROMAN, CHARLES E.,	Green Bay, Wis.
VROOM, GARRET D. W.,	Trenton, N. J.
WADE, DECIUS S.,	Andover, Ohio.
WADE, M. J.,	Iowa City, Ia.
WADHAMS, FREDERICK E.,	Albany, N. Y.
WAGGENER, BALIE P.,	Atchison, Kan.
WAKELEY, ELEAZER,	Omaha, Neb.
WALD, GUSTAVUS H.,	Cincinnati, Ohio.
WALKER, ALBERT H.,	New York, N. Y.
WALKER, P. D.,	Charlotte, N. C.
WALKER, ROBERT J. C.,	Philadelphia, Pa.
WALL, GEORGE W.,	Du Quoin, Ill.
WALL, THOMAS B.,	Wichita, Kan.
WALLERSTEIN, DAVID,	Philadelphia, Pa.
WALSH, R. JAY,	Greenwich, Conn.
WALSH, WILLIAM E.,	Cumberland, Md.
WALTER, M. R.,	Baltimore, Md.
WALTON, HENRY F.,	Philadelphia, Pa.
WAMBAUGH, EUGENE,	Cambridge, Mass.
WANTY, GEORGE P.,	Grand Rapids, Mich.
WARD, HAMILTON,	Buffalo, N. Y.
WARD, HENRY GALBRAITH,	New York, N. Y.
WARD, HERBERT H.,	Wilmington, Del.
WARD, HUGH C.,	Kansas City, Mo.
WARFIELD, EDWIN,	Baltimore, Md.
WARNER, DONALD T.,	Salisbury, Conn.
WARNER, GEORGE COFFING,	Great Barrington, Mass.
WARNER, JOHN DEWITT,	New York, N. Y.
WARNER, JOSEPH B.,	Boston, Mass.
WARREN, SAMUEL D.,	Boston, Mass.
WARRINGTON, JOHN W.,	Cincinnati, Ohio.
WARVELLE, GEORGE W.,	Chicago, Ill.
WASHBURNE, WILLIAM D.,	Chicago, Ill.
WATERS, J. S. T.,	Baltimore, Md.
WATROUS, GEORGE D.,	New Haven, Conn.
WATSON, D. T.,	Pittsburg, Pa.
WATTS, LEGH R.,	Portsmouth, Va.
WATTS, THOMAS H.,	Montgomery, Ala.
WATTS, WILLIAM W.,	Louisville, Ky.
WAYLAND, FRANCIS,	New Haven, Conn.
WEADOCK, THOMAS A. E.,	Detroit, Mich.
WEAVER, CLEMENT E.,	Adrian, Mich.
WEAVER, JOHN,	Philadelphia, Pa.
WEBB, GEORGE C.,	Lexington, Ky.
WEBB, JAMES H.,	New Haven, Conn.
WEBBER, WILLIAM L.,	Saginaw, E. S. Mich.

WEBSTER, JOHN L.,	Omaha, Neb.
WEBSTER, W. H.,	Oconto, Wis.
WEEKS, WILLIAM R.,	New York, N. Y.
WEGG, DAVID S.,	Chicago, Ill.
WEIL, A. LEO,	Pittsburg, Pa.
WEISER, J. G.,	Middlebury, Vt.
WELLMAN, ARTHUR H.,	Boston, Mass.
WELLS, ROLLIN J.,	Sioux Falls, S. D.
WEST, ROBERT G.,	Austin, Texas.
WEST, ROY O.,	Chicago, Ill.
WESTON, MELVILLE M.,	Boston, Mass.
WESTON-SMITH, R. D.,	Boston, Mass.
WETHERBEE, WILLIAM H.,	Detroit, Mich.
WETMORE, EDMUND,	New York, N. Y.
WHEELER, ARTHUR DANA,	Chicago, Ill.
WHEELER, EVERETT P.,	New York, N. Y.
WHEELER, SETH S.,	Lima, Ohio.
WHELAN, RALPH,	Minneapolis, Minn.
WHIPPLE, SHERMAN L.,	Boston, Mass.
WHITCOMB, LARZ A.,	Indianapolis, Ind.
WHITE, BENJAMIN T.,	Omaha, Neb.
WHITE, HENRY C.,	New Haven, Conn.
WHITE, LUTHER,	Chicopee, Mass.
WHITE, PETER,	Marquette, Mich.
WHITELOCK, GEORGE,	Baltimore, Md.
WHITTAKER, EGBERT,	Saugerties, N. Y.
WHITTEMORE, JAMES,	Detroit, Mich.
WIGMAN, J. H. M.,	Green Bay, Wis.
WIGMORE, JOHN H.,	Chicago, Ill.
WILCOX, ANSLEY,	Buffalo, N. Y.
WILCOX, WILLIAM A.,	Scranton, Pa.
WILDS, CHARLES M.,	Middlebury, Vt.
WILFLEY, LEBBEUS M.,	St. Louis, Mo.
WILLARD, EDWARD N.,	Scranton, Pa.
WILLARD, GEORGE,	Chicago, Ill.
WILLARD, NORMAN P.,	Chicago, Ill.
WILLCOX, DAVID,	New York, N. Y.
WILLCOX, W. F.,	Chester, Conn.
WILLETT, JOSEPH J.,	Anniston, Ala.
WILLIAMS, CHARLES U.,	Richmond, Va.
WILLIAMS, DAVID W.,	Boston, Mass.
WILLIAMS, E. P.,	Galesburg, Ill.
WILLIAMS, E. RANDOLPH,	Richmond, Va.
WILLIAMS, JOHN G.,	Indianapolis, Ind.
WILLIAMS, R. W.,	Tallahassee, Fla.

WILLIAMS, W. MOEBY,	Washington, D. C.
WILLIAMS, STEVENSON A.,	Bel Air, Md.
WILLIAMSON, SAMUEL E.,	Cleveland, Ohio.
WILLIAMSON, W. PRESTON,	Washington, D. C.
WILLIS, GEORGE R.,	Baltimore, Md.
WILLISTON, SAMUEL,	Belmont, Mass.
WILMER L. ALLISON,	La Plata, Md.
WILMER, SKIPWITH,	Baltimore, Md.
WILSON, CHARLES M.,	Grand Rapids, Mich.
WILSON, F. A.,	Bangor, Me.
WILSON, HENRY H.,	Lincoln, Neb.
WILSON, JOHN R.,	Indianapolis, Ind.
WILSON, NATHANIEL,	Washington, D. C.
WILSON, WOODROW,	Princeton, N. J.
WILTBANK, WILLIAM W.,	Philadelphia, Pa.
WIMBISH, W. A.,	Columbus, Ga.
WINDLE, WILLIAM S.,	West Chester, Pa.
WING, HENRY T.,	New York, N. Y.
WINKLER, FREDERICK C.,	Milwaukee, Wis.
WINTERNITZ, BENJAMIN A.,	New Castle, Pa.
WIRT, JOHN S.,	Elkton, Md.
WISE, JESSE H.,	Pittsburg, Pa.
WISE, JOHN S.,	New York, N. Y.
WISWELL, ANDREW P.,	Ellsworth, Me.
WITHINGTON, DAVID L.,	San Diego, Cal.
WITHROW, JAMES E.,	St. Louis, Mo.
WOLCOTT, EDWARD O.,	Denver, Col.
WOLF, GUSTAVE A.,	Grand Rapids, Mich.
WOLLMAN, HENRY,	New York, N. Y.
WOLVERTON, SIMON P.,	Sunbury, Pa.
WOOD, JOHN M.,	St. Louis, Mo.
WOODARD, CHARLES F.,	Bangor, Me.
WOODMAN, EDWARD,	Portland, Me.
WOODRUFF, GEORGE M.,	Litchfield, Conn.
WOODRUFF, ROBERT S.,	Trenton, N. J.
WOODS, CHARLES A.,	Marion, S. C.
WOODS, JOHN CARTER BROWN,	Providence, R. I.
WOODS, WILLIAM A.,	Indianapolis, Ind.
WOODS, WILLIAM W.,	Wallace, Idaho.
WOODWARD, FREDERIC C.,	Carlisle, Pa.
WOODWARD, STANLEY,	Wilkesbarre, Pa.
WOOLLEN, EVANS,	Indianapolis, Ind.
WOOLSEY, THEO. S.,	New Haven, Conn.
WOOLWORTH, JAMES M.,	Omaha, Neb.
WORK, JAMES C.,	Uniontown, Pa.

ALPHABETICAL LIST OF MEMBERS.

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WORKS, JOHN D.,	Los Angeles, Cal.
WORTHINGTON, WILLIAM,	Cincinnati, Ohio.
WRIGHT, CHARLES W.,	Tucson, Ariz.
WURTS, JOHN,	New Haven, Conn.
WYMAN, HENRY A.,	Boston, Mass.
YANCEY, DAVID W.,	Muskogee, I. T.
YOUMANS, FRANK A.,	Fort Smith, Ark.
YOUNG, DAVID, K.,	Clinton, Tenn.
YOUNG, GEORGE B.,	St. Paul, Minn.
YOUNG, GEORGE R.,	Dayton, Ohio.
YOUNG, HENRY E.,	Charleston, S. C.
YOUNG, JAMES S.,	Pittsburg, Pa.
ZEISLER, SIGMUND,	Chicago, Ill.

MEMBERS—AUGUST, 1900-1901.

ALABAMA.

HARMON, R. L.,	Montgomery.
HARRISON, GEORGE P.,	Opelika.
LONDON, ALEXANDER T.,	Birmingham.
MCCLELLAN, THOMAS N.,	Montgomery.
RUSSELL, EDWARD L.,	Mobile.
TROY, ALEXANDER,	Montgomery.
WATTS, THOMAS H.,	Montgomery.
WILLETT, JOSEPH J.,	Anniston.

ARIZONA.

BARNES, WILLIAM H.,	Tucson.
ELLINWOOD, EVERETT E.,	Flagstaff.
HERNDON, JOHN C.,	Prescott.
MORRISON, ROBERT E.,	Prescott.
SANFORD, ELISHA M.,	Prescott.
WRIGHT, CHARLES W.,	Tucson.

ARKANSAS.

BOONE, THOS. W. M.,	Fort Smith.
COCKRILL, STERLING R.,	Little Rock.
COHN, M. M.,	Little Rock.
CRAVENS, WILLIAM M.,	Fort Smith.
DUVAL, BEN. T.,	Fort Smith.
HILL, JOSEPH M.,	Fort Smith.
HORNER, JOHN J.,	Helena.
MCDONOUGH, JAMES B.,	Fort Smith.
MCLOUD, J. W.,	Little Rock.
ROSE, GEORGE B.,	Little Rock.
ROSE, U. M.,	Little Rock.
TURNER, JESSE,	Van Buren.
YOUMANS, FRANK A.,	Fort Smith.

CALIFORNIA.

BRITT, E. W.,	San Francisco
CARTER, CASSIUS,	San Diego.
CHICKERING, W. H.,	San Francisco.

CALIFORNIA.—Continued.

FULLER, GEORGE,	San Diego.
GIBSON, JAMES A.,	Los Angeles.
GIBSON, WILLIAM K.,	Riverside.
HAYNE, ROBERT Y.,	San Francisco.
✓ HUNSAKER, WILLIAM J.,	Los Angeles.
✓ MONROE, CHARLES,	Los Angeles.
✓ MCALLISTER, HALL,	San Francisco.
MCDONALD, J. WADE,	San Diego.
OTIS, GEORGE E.,	San Bernardino.
SMITH, SAM. FERRY,	San Diego.
✓ TITUS, H. L.,	San Diego.
TRIPPET, OSCAR A.,	San Diego.
WITHINGTON, DAVID L.,	San Diego.
WORKS, JOHN D.,	Los Angeles.

COLORADO.

BARTELS, G. C.,	Denver.
BLOOD, JAMES H.,	Denver.
✓ BROOKS, FRANKLIN E.,	Colorado Springs.
BRYANT, WM. H.,	Denver.
✓ BUTLER, HUGH,	Denver.
✓ CAMPBELL, CHARLES M.,	Denver.
CAVENDER, CHARLES,	Leadville.
✓ DECKER, WESTBROOK S.,	Denver.
✓ DINES, TYSON S.,	Denver.
GAST, CHARLES E.,	Pueblo.
GUNTER, JULIUS C.,	Trinidad.
HALLETT, MOSES,	Denver.
✓ HERRINGTON, CASS E.,	Denver.
✓ HUGHES, CHARLES J., JR.,	Denver.
LUNT, HORACE G.,	Colorado Springs.
✓ MAY, HENRY F.,	Denver.
O'DONNELL, THOMAS J.,	Denver.
ROGERS, HENRY T.,	Denver.
ROGERS, PLATT,	Denver.
SHAFROTH, JOHN F.,	Denver.
SMITH, EDWIN HARVIE,	Denver.
STEELE, ROBERT W.,	Denver.
STEVENSON, ARCHIE M.,	Denver.
✓ THOMAS, CHARLES S.,	Denver.
VAILE, JOEL F.,	Denver.
WOLCOTT, EDWARD O.,	Denver.

CONNECTICUT.

ARVINE, E. P.,	New Haven.
BALDWIN, SIMEON E.,	New Haven.
BEARDSLEY, MORRIS B.,	Bridgeport.
BEERS, GEORGE E.,	New Haven.
BREWSTER, LYMAN D.,	Danbury.
BRISCOE, CHARLES H.,	Hartford.
CLARK, JAMES GARDNER,	New Haven.
CONANT, GEORGE A.,	Hartford.
CULVER, M. EUGENE,	Middletown.
CURTIS, JULIUS B.,	Stamford.
GAGER, EDWIN B.,	Derby.
HARRISON, LYNDE,	New Haven.
HYDE, WILLIAM W.,	Hartford.
KELLOGG, STEPHEN W.,	Waterbury.
KNAPP, HOWARD H.,	Bridgeport.
NEWTON, HENRY G.,	New Haven.
PHELPS, CHARLES,	Rockville.
RAYNOLDS, EDWARD V.,	New Haven.
ROBBINS, EDWARD D.,	Hartford.
ROGERS, EDWARD H.,	New Haven.
ROGERS, HENRY WADE,	New Haven.
RUSSELL, TALCOTT H.,	New Haven.
SCOTT, HOWARD B.,	Danbury.
SEARLES, CHARLES E.,	Putnam.
SEYMOUR, GEORGE D.,	New Haven.
SHUMWAY, MILTON A.,	Danielson.
STANTON, LEWIS E.,	Hartford.
TORRANCE, DAVID,	Derby.
TOWNSEND, WILLIAM K.,	New Haven.
TYLER, MORRIS F.,	New Haven.
WALSH, R. JAY,	Greenwich.
WARNER, DONALD T.,	Salisbury.
WATROUS, GEORGE D.,	New Haven.
WAYLAND, FRANCIS,	New Haven.
WEBB, JAMES H.,	New Haven.
WHITE, HENRY C.,	New Haven.
WILLCOX, W. F.,	Chester.
WOODEUFF, GEORGE M.,	Litchfield.
WOOLSEY, THEO. S.,	New Haven.
WURTS, JOHN,	New Haven.

DELAWARE.

BRADFORD, EDWARD G.,	Wilmington.
GARLAND, SPOTTSWOOD,	Wilmington.

DELAWARE.—Continued.

GRAY, GEORGE,	Wilmington.
GRUBB, IGNATIUS C.,	Wilmington.
HIGGINS, ANTHONY,	Wilmington.
HILLES, WILLIAM S.,	Wilmington.
LORE, CHARLES B.,	Wilmington.
NICHOLSON, JOHN R.,	Dover.
NIELDS, BENJAMIN,	Wilmington.
NIELDS, JOHN P.,	Wilmington.
SAULSBURY, WILLARD,	Wilmington.
WARD, HERBERT H.,	Wilmington.

DISTRICT OF COLUMBIA.

ABERT, WILLIAM STONE,	Washington.
ASHTON, J. HUBLEY,	Washington.
BALDWIN, WILLIAM D.,	Washington.
BERRY, WALTER V. B.,	Washington.
BLAIR, JOHN S.,	Washington.
BOND, S. R.,	Washington.
BREWER, DAVID J.,	Washington.
BROWN, CHAPIN,	Washington.
BROWN, HENRY B.,	Washington.
BROWNE, ALDIS B.,	Washington.
BROWNE, ARTHUR S.,	Washington.
CARLISLE, CALDERON,	Washington.
CHURCH, MELVILLE,	Washington.
DAVIS, HENRY E.,	Washington.
DENNIS, WILLIAM H.,	Washington.
EDMONSTON, WILLIAM E.,	Washington.
FISHER, ROBERT J.,	Washington.
FISHER, SAMUEL T.,	Washington.
FOSTER, CHARLES E.,	Washington.
HAGNER, ALEXANDER B.,	Washington.
HAMILTON, GEORGE EARNEST,	Washington.
HAYDEN, JAMES H.,	Washington.
HINE, LEMON G.,	Washington.
HOWARD, GEORGE H.,	Washington.
KENNEDY, CRAMMOND,	Washington.
KING, GEORGE A.,	Washington.
LAMBERT, TAILMADGE A.,	Washington.
LAMBERT, WILTON J.,	Washington.
LANCASTER, CHARLES C.,	Washington.
LARNER, JOHN B.,	Washington.
LECKIE, A. E. L.,	Washington.

DISTRICT OF COLUMBIA.—Continued.

LEE, BLAIR,	Washington.
MADDOX, SAMUEL,	Washington.
MAURO, PHILIP,	Washington.
MELoy, WILLIAM A.,	Washington.
MICHENER, L. T.,	Washington.
MILLER, WILLIAM J.,	Washington.
MORRIS, M. F.,	Washington.
MORSE, A. PORTER,	Washington.
MCCAMMON, JOSEPH K.,	Washington.
MCGILL, J. NOTA,	Washington.
MCKENNEY, FREDERIC D.,	Washington.
NEEDHAM, CHARLES W.,	Washington.
PAGE, THOMAS NELSON,	Washington.
PAYNE, JAMES G.,	Washington.
PERRY, R. ROSS, JR.,	Washington.
RALSTON, JACKSON H.,	Washington.
SELDEN, JOHN,	Washington.
SEYMOUR, HENRY A.,	Washington.
SHEPARD, SETH,	Washington.
SMITH, LUTHER R.,	Washington.
SNOW, ALPHEUS H.,	Washington.
WILLIAMS, W. MOSBY,	Washington.
WILLIAMSON, W. PRESTON,	Washington.
WILSON, NATHANIEL,	Washington.

FLORIDA.

AVERY, JOHN C.,	Pensacola.
BAKER, WILLIAM H.,	Jacksonville.
BLOUNT, WILLIAM A.,	Pensacola.
FLETCHER, D. U.,	Jacksonville.
LIDDON, BENJ. S.,	Pensacola.
MASSEY, LOUIS C.,	Orlando.
RINEHART, C. D.,	Jacksonville.
WILLIAMS, R. W.,	Tallahassee.

GEORGIA.

ABBOTT, B. F.,	Atlanta.
ADAMS, SAMUEL B.,	Savannah.
AKIN, JOHN W.,	Cartersville.
BARROW, POPE,	Savannah.
BARTLETT, CHARLES L.,	Macon.
BRANDON, MORRIS,	Atlanta.
CANN, J. FERRIS,	Savannah.

GEORGIA.—Continued.

CHARLTON, WALTER G.,	Savannah.
COLVILLE, FULTON,	Atlanta.
CROVATT, A. J.,	Brunswick.
CUMMING, JOSEPH B.,	Augusta.
CUNNINGHAM, HENRY C.,	Savannah.
CUNNINGHAM, T. M., JR.,	Savannah.
DE LACY, JOHN F.,	Eastman.
DUBIGNON, FLEMING G.,	Savannah.
ELLIS, W. D.,	Atlanta.
ERWIN, R. G.,	Savannah.
FALLIGANT, ROBERT,	Savannah.
GARRARD, LOUIS F.,	Columbus.
GOETCHIUS, HENRY R.,	Columbus.
HILL, WALTER B.,	Athens.
KAY, WILLIAM E.,	Brunswick.
LAMAR, JOSEPH R.,	Augusta.
LAWTON, ALEXANDER R.,	Savannah.
LEAKEN, WILLIAM R.,	Savannah.
MACKALL, WILLIAM W.,	Savannah.
MELDRIM, P. W.,	Savannah.
MERRILL, JOSEPH HANSELL,	Thomasville.
MILLER, FRANK H.,	Augusta.
MILLER, FRANK H., JR.,	Augusta.
MILLER, WILLIAM K.,	Augusta.
MCALPIN, HENRY,	Savannah.
MCWHORTER, HAMILTON,	Lexington.
NEWMAN, EMILE,	Savannah.
OWENS, GEORGE W.,	Savannah.
PEABODY, FRANCIS D.,	Columbus.
SEABROOK, PAUL E.,	Pineora.
SMITH, BURTON,	Atlanta.
TOMPKINS, HENRY B.,	Atlanta.
WIMBISH, W. A.,	Columbus.

IDAHO

MAYHEW, ALEXANDER E.,	Wallace.
ROBB, BAMFORD A.,	Boise.
WOODS, WILLIAM W.,	Wallace.

ILLINOIS.

ANDREWS, JAMES D.,	Chicago.
AYER, B. F.,	Chicago.
BANCROFT, EDGAR A.,	Chicago.

ILLINOIS.—Continued.

BANNING, EPHRAIM,	Chicago.
BARRETT, ELMER E.,	Chicago.
BARTON, GEORGE P.,	Chicago.
BEACH, MYRON H.,	Chicago.
BEALE, WILLIAM G.,	Chicago.
BLAIR, FRANK PRESTON,	Chicago.
BONNEY, C. C.,	Chicago.
BRADWELL, JAMES B.,	Chicago.
BROWN, TAYLOR E.,	Chicago.
BURNHAM, TELFORD,	Chicago.
BURRY, WILLIAM,	Chicago.
CATE, ALBION,	Chicago.
CHANCELLOR, JUSTUS,	Chicago.
CRAWFORD, ANDREW,	Chicago.
DANIELS, FRANCIS B.,	Chicago.
DAVIS, HERBERT J.,	Chicago.
DENEEN, CHARLES S.,	Chicago.
DENT, THOMAS,	Chicago.
DICKINSON, J. M.,	Chicago.
DYRENFORTH, PHILIP C.,	Chicago.
DYRENFORTH, WILLIAM H.,	Chicago.
EASTMAN, SIDNEY C.,	Chicago.
ESTABROOK, HENRY D.,	Chicago.
FENTRESS, JAMES,	Chicago.
FIELD, HEMAN H.,	Chicago.
FLOWER, JAMES M.,	Chicago.
FURNESS, WILLIAM ELIOT,	Chicago.
GARTSIDE, JOHN M.,	Chicago.
GIBBONS, JOHN,	Chicago.
GOODRICH, ADAMS A.,	Chicago.
GREGORY, STEPHEN S.,	Chicago.
GROSSCUP, PETER S.,	Chicago.
HALL, THOMAS L.,	Chicago.
HAMLIN, JOHN H.,	Chicago.
HARDING, CHARLES F.,	Chicago.
HARRIMAN, EDWARD AVERY,	Chicago.
HEBARD, FREDERIC S.,	Chicago.
HERRICK, JOHN J.,	Chicago.
HILL, LYSANDER,	Chicago.
HOLDOM, JESSE,	Chicago.
HURD, HARVEY B.,	Chicago.
ISHAM, EDWARD S.,	Chicago.
JEWETT, JOHN N.,	Chicago.
JUNKIN, FRANCIS T. A.,	Chicago.

ILLINOIS.—Continued.

KENNA, EDWARD D.,	Chicago.
KRAUTHOFF, L. C.,	Chicago.
KRETZINGER, GEORGE W.,	Chicago.
LACKNER, FRANCIS,	Chicago.
LEE, BLEWETT,	Chicago.
LEVINSON, S. O.,	Chicago.
LOESCH, FRANK J.,	Chicago.
LOWDEN, FRANK O.,	Chicago.
MACK, JULIAN W.,	Chicago.
MANNING, WILLIAM J.,	Chicago.
MARTIN, HORACE H.,	Chicago.
MARTYN, CHAUNCEY W.,	Chicago.
MATHER, ROBERT,	Chicago.
MERRICK, GEORGE PECK,	Chicago.
MILLER, JOHN S.,	Chicago.
MORAN, THOMAS A.,	Chicago.
MOSES, ADOLPH,	Chicago.
MUSGRAVE, HARRISON,	Chicago.
MCCORDIC, ALFRED E.,	Chicago.
MC ELROY, JOHN H.,	Chicago.
OFFIELD, CHARLES K.,	Chicago.
OTIS, EPHRAIM A.,	Chicago.
PADDOCK, GEORGE L.,	Chicago.
PAGE, GEORGE T.,	Peoria.
PARKINSON, ROBERT H.,	Chicago.
PECK, GEORGE R.,	Chicago.
PENCE, ABRAM M.,	Chicago.
PINGREY, D. H.,	Bloomington.
PRUSSING, EUGENE E.,	Chicago.
RAYMOND, JAMES H.,	Chicago.
REED, FRANK F.,	Chicago.
RICHBERG, JOHN C.,	Chicago.
RINAKER, JOHN I.,	Carlinville.
RITSHER, EDWARD C.,	Chicago.
ROBBINS, HENRY S.,	Chicago.
ROGERS, ELMER E.,	Chicago.
ROGERS, GEORGE MILLS,	Chicago.
ROSENTHAL, JULIUS,	Chicago.
RUBENS, HARRY,	Chicago.
RUNNELLS, JOHN S.,	Chicago.
SANDERS, GEORGE A.,	Springfield.
SCOTT, FRANK H.,	Chicago.
SHERIFF, ANDREW R.,	Chicago.
SHERMAN, E. B.,	Chicago.

ILLINOIS.—Continued.

SMITH, EDWIN BURBITT,	Chicago.
STARR, MERRITT,	Chicago.
STILLMAN, HERMAN W.,	Chicago.
TENNEY, HORACE KENT,	Chicago.
THOMAN, LEROY D.,	Chicago.
THORNTON, CHARLES S.,	Chicago.
TOWLE, HENRY S.,	Chicago.
ULLMAN, FREDERIC,	Chicago.
WALL, GEORGE W.,	Du Quoin.
WARVELLE, GEORGE W.,	Chicago.
WASHBURNE, WILLIAM D.,	Chicago.
WEGG, DAVID S.,	Chicago.
WEST, ROY O.,	Chicago.
WHEELER, ARTHUR DANA,	Chicago.
WIGMORE, JOHN H.,	Chicago.
WILLARD, GEORGE,	Chicago.
WILLARD, NORMAN P.,	Chicago.
WILLIAMS, E. P.,	Galesburg.
ZEISLER, SIGMUND,	Chicago.

INDIAN TERRITORY.

BURCKHALTER, JAMES B.,	Vinita
YANCEY, DAVID W.,	Muskogee.

INDIANA.

BEAUCHAMP, ROBERT B.,	Tipton.
BRADFORD, CHESTER,	Indianapolis.
BRADY, ARTHUR W.,	Muncie.
BREEN, WILLIAM P.,	Fort Wayne.
BROWNLEE, HIRAM,	Marion.
BUSHNELL, WILLIAM S.,	Monticello.
BUTLER, NOBLE C.,	Indianapolis.
CARSON, JOHN F.,	Indianapolis.
CHAMBERS, SMILEY N.,	Indianapolis.
CLARKE, GEORGE E.,	South Bend.
DANIELS, EDWARD,	Indianapolis.
DAVIS, SYDNEY B.,	Terre Haute.
DEMOTTE, MARK L.,	Valparaiso.
DYE, JOHN T.,	Indianapolis.
ELLIOTT, WILLIAM F.,	Indianapolis.
EVANS, ROWLAND,	Indianapolis.
FAIRBANKS, CHAS. W.,	Indianapolis.

INDIANA.—Continued.

FESLER, JAMES WILLIAM,	Indianapolis.
FRASER, DANIEL,	Fowler.
FREY, PHILIP W.,	Evansville.
GOULD, JOHN H.,	Delphi.
HAMMOND, EDWIN P.,	La Fayette.
HARRISON, BENJAMIN,	Indianapolis.
HAWKINS, ROSCOE O.,	Indianapolis.
HEROD, WILLIAM PIETLE,	Indianapolis.
INGLER, FRANCIS M.,	Indianapolis.
JAMESON, OVID B.,	Indianapolis.
JOSS, FREDERICK A.,	Indianapolis.
KERN, JOHN W.,	Indianapolis.
KETCHAM, WILLIAM A.,	Indianapolis.
LESH, U. S.,	Huntington.
LOCKWOOD, VIRGIL H.,	Indianapolis.
MARTINDALE, CHARLES,	Indianapolis.
MILLER, CHARLES W.,	Goshen.
MONTGOMERY, OSCAR H.,	Seymour.
MOORES, CHARLES W.,	Indianapolis.
MOORES, MERRILL,	Indianapolis.
MORRIS, JOHN JR.,	Fort Wayne.
MORRIS, NATHAN,	Indianapolis.
MYERS, QUINCY A.,	Logansport.
NEWBERGER, LOUIS,	Indianapolis.
NOEL, JAMES W.,	Indianapolis.
OGLESBEE, ROLLA B.,	Plymouth.
PALMER, TRUMAN F.,	Monticello.
PENFIELD, W. L. (State Dep't, Washington, D.C.),	Auburn.
PICKENS, SAMUEL O.,	Indianapolis.
PICKENS, WILLIAM A.,	Indianapolis.
REINHARD, GEORGE L.,	Bloomington.
ROGERS, WILLIAM P.,	Bloomington.
ROSE, JAMES E.,	Auburn.
SAYLER, SAMUEL M.,	Huntington.
SELLERS, EMORY B.,	Monticello.
SMITH, ALONZO GREENE,	Indianapolis.
SMITH, CHARLES W.,	Indianapolis.
SPENCER, CHARLES C.,	Monticello.
STEVENSON, ELMER E.,	Indianapolis.
STUART, WILLIAM V.,	La Fayette.
SWAN, ELBERT M.,	Rockport.
TAYLOR, R. S.,	Fort Wayne.
TAYLOR, WILLIAM L.,	Indianapolis.
WHITCOMB, LARZ A.,	Indianapolis.

INDIANA.—Continued.

WILLIAMS, JOHN G.,	Indianapolis.
WILSON, JOHN R.,	Indianapolis.
WOODS, WILLIAM A.,	Indianapolis.
WOOLLEN, EVANS,	Indianapolis.

IOWA.

BURK, W. D.,	Muscatine.
CANADAY, WALTER,	Boone.
CLIGGETT, JOHN,	Mason City.
CRAIG, JOHN E.,	Keokuk.
CROSBY, JAMES O.,	Garnavillo.
CUMMINS, A. B.,	Des Moines.
DAVIS, JAMES C.,	Keokuk.
DEERY, JOHN,	Dubuque.
DILLE, JOHN I.,	Des Moines.
DUDLEY, C. A.,	Des Moines.
DUNCOMBE, JOHN F.,	Fort Dodge.
GUERNSEY, NATHANIEL T.,	Des Moines.
HENDERSON, J. H.,	Indianola.
KINNE, L. G.,	Des Moines.
KNIGHT, W. J.,	Dubuque.
MOFFIT, JOHN T.,	Tipton.
MCCARTHY, J. J.,	Dubuque.
MCCLAIN, EMLIN,	Iowa City.
MCCONLOGUE, JAMES H.,	Mason City.
PARSONS, JAMES M.,	Rock Rapids.
QUARTON, WILLIAM B.,	Algona.
RICHARDS, HARRY S.,	Iowa City.
SEEVERS, GEORGE W.,	Oskaloosa.
SHERWIN, JOHN C.,	Mason City.
SHIRAS, OLIVER P.,	Dubuque.
STILLMAN, WALTER S.,	Council Bluffs.
SWETTING, ERNEST V.,	Algona.
WADE, M. J.,	Iowa City.

KANSAS.

MILLIKEN, JOHN D.,	McPherson.
SMITH, CHARLES B.,	Topeka.
WAGGENER, BALIE P.,	Atchison.
WALL, THOMAS B.,	Wichita.

KENTUCKY.

ALLEN, JOHN R.,	Lexington.
BARR, JOHN W.,	Louisville.

KENTUCKY.—Continued.

BARR, JOHN W., JR.,	Louisville.
BASKIN, JOHN B.,	Louisville.
BRUCE, HELM,	Louisville.
BULLITT, THOMAS W.,	Louisville.
BULLITT, WILLIAM MARSHALL,	Louisville.
DEMBITZ, LEWIS N.,	Louisville.
GILBERT, GEORGE G.,	Shelbyville.
GRUBBS, CHARLES, S.,	Louisville.
HARRIS, W. O.,	Louisville.
HELM, JAMES P.,	Louisville.
KOHN, AARON,	Louisville.
LINDSAY, WILLIAM,	Frankfort.
MACPHERSON, ERNEST,	Louisville.
MARSHALL, BURWELL K.,	Louisville.
MORTON, J. R.,	Lexington.
MCDERMOTT, EDWARD J.,	Louisville.
PIRTLE, JAMES S.,	Louisville.
SCOTT, C. SUYDAM,	Lexington.
SHERLEY, SWAGAR,	Louisville.
STONE, HENRY L.,	Louisville.
THUM, WILLIAM WARWICK,	Louisville.
TONEY, STERLING B.,	Louisville.
TRABUE, E. F.,	Louisville.
WATTS, WILLIAM W.,	Louisville.
WEBB, GEORGE C.,	Lexington.

LOUISIANA.

ALEXANDER, TALIAFERRO,	Shreveport.
BENEDICT, W. S.,	New Orleans.
BRICE, ALBERT G.,	New Orleans.
DART, HENRY P.,	New Orleans.
DENÉGRE, GEORGE,	New Orleans.
DENÉGRE, WALTER D.,	New Orleans.
FARRAR, EDGAR H.,	New Orleans.
FLORANCE, ERNEST T.,	New Orleans.
FORMAN, BENJAMIN RICE,	New Orleans.
HALL, HARRY H.,	New Orleans.
HART, W. O.,	New Orleans.
HOWE, WILLIAM WIRT,	New Orleans.
HUNT, CARLETON,	New Orleans.
KERNAN, THOMAS J.,	Baton Rouge.
KRUTTSCHNITT, ERNEST B.,	New Orleans.
LEGÈNDRE, JAMES,	New Orleans.

LOUISIANA.—Continued.

MARR, ROBERT H., JR.,	New Orleans.
MERRICK, EDWIN T.,	New Orleans.
MCCLOSKEY, BERNARD,	New Orleans.
ROST, EMILE,	New Orleans.

MAINE.

APPLETON, FREDERICK H.,	Bangor.
BELCHER, S. CLIFFORD,	Farmington.
BIRD, GEORGE E.,	Portland.
COOK, CHARLES SUMNER,	Portland.
EMERY, LUCILLIUS A.,	Ellsworth.
HALE, CLARENCE,	Portland.
HAMLIN, CHARLES,	Bangor.
HAMLIN, HANNIBAL E.,	Ellsworth.
HIGGINS, FRANK M.,	Limerick.
LIBBY, CHARLES F.,	Portland.
LITTLEFIELD, CHARLES E.,	Rockland.
LOCKE, JOSEPH A.,	Portland.
MADIGAN, JOHN B.,	Houlton.
PETERS, JOHN A.,	Bangor.
POWERS, FREDERICK A.,	Houlton.
SKELTON, WILLIAM B.,	Lewiston.
SNOW, DAVID W.,	Portland.
STROUT, SEWALL C.,	Portland.
SYMONDS, JOSEPH W.,	Portland.
WILSON, F. A.,	Bangor.
WISWELL, ANDREW P.,	Ellsworth.
WOODARD, CHARLES F.,	Bangor.
WOODMAN, EDWARD,	Portland.

MARYLAND.

ADKINS, WILLIAM H.,	Easton.
ALEXANDER, JULIAN J.,	Baltimore.
BARROLL, HOPE H.,	Chestertown.
BERNARD, RICHARD,	Baltimore.
BONAPARTE, CHARLES J.,	Baltimore.
BRANTLY, WILLIAM T.,	Baltimore.
BRISCOE, JOHN P.,	Prince Frederick.
BROWN, STEWART,	Baltimore.
BUCKLER, WILLIAM H.,	Baltimore.
CAREY, FRANCIS K.,	Baltimore.
COWEN, JOHN K.,	Baltimore.
CROSS, E. J. D.,	Baltimore.

MARYLAND.—Continued.

DAWKINS, WALTER I.,	Baltimore.
DAWSON, WILLIAM H.,	Baltimore.
DINNEEN, JOHN H.,	Baltimore.
FISHER, WILLIAM A.,	Baltimore.
GAITHER, GEORGE R., JR.,	Baltimore.
GANS, EDGAR H.,	Baltimore.
GREGG, MAURICE,	Baltimore.
HARLAN, HENRY D.,	Baltimore.
HARLEY, CHARLES F.,	Baltimore.
HAWKINS, GILBERT S.,	Bel Air.
HAYES, THOMAS G.,	Baltimore.
HENDERSON, ROBERT R.,	Cumberland.
HINKLEY, JOHN,	Baltimore.
HISKY, THOMAS FOLEY,	Baltimore.
HOULTON, SAMUEL C.,	Baltimore.
HUGHES, THOMAS,	Baltimore.
KNOTT, A. LEO,	Baltimore.
LEAKIN, J. WILSON,	Baltimore.
LOWNDES, LLOYD,	Cumberland.
MACKALL, THOMAS B.,	Baltimore.
MARBURY, WILLIAM L.,	Baltimore.
MASON, R., JOHN T.,	Baltimore.
MILES, JOSHUA W.,	Princess Anne.
MITCHELL, JOHN H.,	La Plata.
MORRIS, THOMAS J.,	Baltimore.
MULLIN, MICHAEL A.,	Baltimore.
MCCOMAS, LOUIS E.,	Hagerstown.
PAGE, HENRY,	Princess Anne.
PERKINS, WILLIAM H.,	Baltimore.
PHELPS, CHARLES E.,	Baltimore.
POE, JOHN PRENTISS,	Baltimore.
RHODES, FRANK V.,	Baltimore.
RICHMOND, BENJAMIN, A.,	Cumberland.
ROBINSON, RALPH,	Baltimore.
ROBINSON, THOMAS H.,	Bel Air.
ROGERS, ROBERT LYON,	Baltimore.
SAMS, CONWAY W.,	Baltimore.
SCHMUCKER, SAMUEL D.,	Baltimore.
SHARP, GEORGE M.,	Baltimore.
SLOAN, DAVID W.,	Cumberland.
SMITH, BEVERLY W.,	Baltimore.
STEUART, ARTHUR,	Baltimore.
STOCKBRIDGE, HENRY,	Baltimore.
THOMAS, WILLIAM S.,	Baltimore.

MARYLAND.—Continued.

URNER, MILTON G.,	Frederick.
VENABLE, RICHARD M.,	Baltimore.
WALSH, WILLIAM E.,	Cumberland.
WALTER, M. R.,	Baltimore.
WARFIELD, EDWIN,	Baltimore.
WATERS, J. S. T.,	Baltimore.
WHITELOCK, GEORGE,	Baltimore.
WILLIAMS, STEVENSON A.,	Bel Air.
WILLIS, GEORGE R.,	Baltimore.
WILMER L. ALLISON,	La Plata.
WILMER, SKIPWITH,	Baltimore.
WIRT, JOHN S.,	Elkton.

MASSACHUSETTS.

ADAMS, WALTER,	So. Framingham.
ALLEN, FRANK D.,	Boston.
AMES, JAMES BARR,	Cambridge.
ANDERSON, GEORGE W.,	Boston.
APPLETON, JOHN H.,	Boston.
BACON, GEORGE A.,	Springfield.
BARNES, CHARLES B., JR.,	Boston.
BEALE, JOSEPH HENRY,	Cambridge.
BELL, C. U.,	Lawrence.
BENNETT, S. C.,	Boston.
BIGELOW, MELVILLE M.,	Boston.
BRANDEIS, LOUIS D.,	Boston.
BRANNAN, J. DODDRIDGE,	Cambridge.
BROOKS, FRANCIS A.,	Boston.
BULLOCK, A. G.,	Worcester.
BUMPUS, EVERETT C.,	Boston.
CARVER, EUGENE P.,	Boston.
CHAMPLIN, EDGAR R.,	Boston.
CHANDLER, ALFRED D.,	Boston.
CLAPP, ROBERT P.,	Lexington.
CLARK, I. R.,	Boston.
CLIFFORD, CHARLES W.,	New Bedford.
COOLIDGE, WILLIAM H.,	Boston.
COPELAND, ALFRED M.,	Springfield.
CORCORAN, JOHN W.,	Boston.
COTTER, JAMES E.,	Boston.
CRAPO, WILLIAM W.,	New Bedford.
CROCKER, GEORGE G.,	Boston.
CUNNINGHAM, FREDERIC,	Boston.

MASSACHUSETTS.—Continued.

DABNEY, L. S.,	Boston.
DANA, WILLIAM S.,	Turner's Falls.
DAVIS, JOHN,	Lowell.
DAVIS, SIMON,	Boston.
DEWEY, HENRY S.,	Boston.
DICKINSON, M. F., JR.,	Boston.
DILLAWAY, W. E. L.,	Boston.
DODGE, FREDERIC,	Boston.
EMERY, WOODWARD,	Cambridge.
ERNST, GEORGE A. O.,	Boston.
ESTABROOK, GEORGE W.,	Boston.
FALL, GEORGE HOWARD,	Malden.
FISH, FREDERICK P.,	Boston.
FOSTER, ALFRED D.,	Boston.
FOSTER, REGINALD,	Boston.
FOX, JABEZ,	Boston.
FRENCH, WILLIAM B.,	Boston.
FULLER, HORACE W.,	Boston.
GALLAGHER, CHARLES T.,	Boston.
GARGAN, THOMAS J.,	Boston.
GIDDINGS, CHARLES,	Great Barrington.
GOODWIN, FRANK,	Boston.
GRAY, JOHN C.,	Boston.
GREENE, FREDERICK L.,	Greenfield.
HALL, BORDMAN,	Boston.
HASKELL, FREDERICK F.,	Boston.
HEMENWAY, ALFRED,	Boston.
HOWE, ELMER P.,	Boston.
HUNT, FREEMAN,	Boston.
HURLBUTT, HENRY F.,	Lynn.
JENNINGS, ANDREW J.,	Fall River.
JOHNSON, BENJAMIN N.,	Boston.
JONES, LEONARD A.,	Boston.
KEITH, IRA B.,	Lynn.
KELLEN, WILLIAM V.,	Boston.
KENNEDY, JOHN C.,	Boston.
LADD, BABSON S.,	Boston.
LADD, NATH. W.,	Boston.
LAMB, SAMUEL O.,	Greenfield.
MORSE, GODFREY,	Boston.
MORSE, ROBERT M.,	Boston.
MUNROE, WILLIAM A.,	Boston.
MYERS, JAMES J.,	Boston.
McEVoy, JOHN W.,	Lowell.

MASSACHUSETTS.—Continued.

OLNEY, RICHARD,	Boston.
PARKER, EDMUND M.,	Boston.
PAYSON, EDWARD P.,	Boston.
PIERCE, EDWARD P.,	Fitchburg.
PROCTOR, THOMAS W.,	Boston.
PUTNAM, HENRY W.,	Boston.
PUTNAM, WILLIAM L.,	Boston.
RANNEY, FLETCHER,	Boston.
REED, MILTON,	Fall River.
RICHARDSON, GEORGE F.,	Lowell.
RICHARDSON, W. K.,	Boston.
ROBERTS, GEORGE L.,	Boston.
RUSSELL, CHARLES THEODORE,	Cambridge.
SAWYER, ALFRED P.,	Lowell.
SCAIFE, LAURISTON L.,	Boston.
SCHOFIELD, WILLIAM,	Boston.
SCHOULER, JAMES,	Boston.
SHEPARD, HARVEY N.,	Boston.
SMITH, HENRY HYDE,	Boston.
SMITH, JEREMIAH,	Cambridge.
SPRING, ARTHUR L.,	Boston.
STIMSON, FREDERIC J.,	Boston.
STOREY, MOORFIELD,	Boston.
STORROW, JAMES J., JR.,	Boston.
STRATTON, CHARLES E.,	Boston.
SWAN, CHARLES H.,	Boston.
SWAN, WILLIAM W.,	Boston.
SWASEY, GEORGE R.,	Boston.
THAYER, JAMES BRADLEY,	Cambridge.
TUCKER, GEORGE F.,	Boston.
TYLER, CHARLES H.,	Boston.
WAMBAUGH, EUGENE,	Cambridge.
WARNER, GEORGE COFFING,	Great Barrington.
WARNER, JOSEPH B.,	Boston.
WARREN, SAMUEL D.,	Boston.
WELLMAN, ARTHUR H.,	Boston.
WESTON, MELVILLE M.,	Boston.
WESTON-SMITH, R. D.,	Boston.
WHIPPLE, SHERMAN L.,	Boston.
WHITE, LUTHER,	Chicopee.
WILLIAMS, DAVID W.,	Boston.
WILLISTON, SAMUEL,	Belmont.
WYMAN, HENRY A.,	Boston.

MICHIGAN.

ALDRICH, FRED. H.,	Detroit.
BAKER, HERBERT L.,	Detroit.
BALDWIN, AUGUSTUS C.,	Pontiac.
BALL, DAN. H.,	Marquette.
BARRY, EDMUND D.,	Grand Rapids.
BATES, GEORGE W.,	Detroit.
BEAUMONT, JOHN W.,	Detroit.
BISSELL, JOHN H.,	Detroit.
BOUDEMAN, DALLAS,	Kalamazoo.
CAMPBELL, CHARLES H.,	Detroit.
CAMPBELL, HENRY M.,	Detroit.
CHADBOURNE, THOMAS L.,	Houghton.
CHAMPLIN, JOHN W.,	Grand Rapids.
COWLES, ISRAEL T.,	Detroit.
CRANE, ALBERT,	Grand Rapids.
DENISON, ARTHUR C.,	Grand Rapids.
DICKINSON, DON M.,	Detroit.
DOUGLAS, SAMUEL T.,	Detroit.
DRIGGS, FREDERICK E.,	Detroit.
DUFFIELD, HENRY M.,	Detroit.
DURAND, LORENZO T.,	Saginaw, E. S.
FITZGERALD, JOHN C.,	Grand Rapids.
HALL, EDMUND,	Detroit.
HANCHETT, BENTON,	Saginaw, W. S.
HARMON, HENRY A.,	Detroit.
HARSHA, WALTER S.,	Detroit.
HATCH, REUBEN,	Grand Rapids.
HAYDEN, GEORGE,	Ishpeming.
HOYT, HIRAM J.,	Muskegon.
HUTCHINS, HARRY B.,	Ann Arbor.
HYDE, WESLEY W.,	Grand Rapids.
JACOKES, JAMES A.,	Pontiac.
JANUARY, WILLIAM L.,	Detroit.
KEENEY, WILLARD F.,	Grand Rapids.
KELLY, RONALD,	Detroit.
KENT, CHARLES A.,	Detroit.
KINGSLEY, WILLARD,	Grand Rapids.
KINNE, EDWARD D.,	Ann Arbor.
KNAPPEN, LOYAL E.,	Grand Rapids.
LIGHTNER, CLARENCE A.,	Detroit.
LILLIBRIDGE, WILLARD M.,	Detroit.
MECHEM, FLOYD R.,	Ann Arbor.
MEDDAUGH, ELIJAH W.,	Detroit.
MONTGOMERY, ROBERT M.,	Lansing.

MICHIGAN.—Continued.

MOORE, JOSEPH B.,	Lansing.
MOORE, WILLIAM A.,	Detroit.
MCGARRY, THOMAS F.,	Grand Rapids.
MCGREGOR, MALCOLM,	Detroit.
McMILLAN, JAMES H.,	Detroit.
NORRIS, MARK,	Grand Rapids.
O'BRIEN, THOMAS J.,	Grand Rapids.
OSTRANDER, RUSSELL C.,	Lansing
PARKHURST, JOHN G.,	Coldwater.
PATTERSON, JOHN C.,	Marshall.
PATTERSON, JOHN H.,	Pontiac.
PATTON, JOHN,	Grand Rapids.
PENDLETON, EDWARD W.,	Detroit.
POND, ASHLEY,	Detroit.
RADFORD, GEORGE W.,	Detroit.
ROBSON, FRANK E.,	Detroit.
RUSSELL, ALFRED,	Detroit.
RUSSELL, HENRY,	Detroit.
SMITH, WILLIAM ALDEN,	Grand Rapids.
STEVENS, FREDERICK W.,	Grand Rapids.
STONE, J. W.,	Marquette.
SWIFT, CHARLES M.,	Detroit.
TAGGART, EDWARD,	Grand Rapids.
WANTY, GEORGE P.,	Grand Rapids.
WEADOCK, THOMAS A. E.,	Detroit.
WEAVER, CLEMENT E.,	Adrian.
WEBBER, WILLIAM L.,	Saginaw, E. S.
WETHERBEE, WILLIAM H.,	Detroit.
WHITE, PETER,	Marquette.
WHITTEMORE, JAMES,	Detroit.
WILSON, CHARLES M.,	Grand Rapids.
WOLF, GUSTAVE A.,	Grand Rapids.

MINNESOTA.

BROWN, FREDERICK V.,	Minneapolis.
COHEN, EMANUEL,	Minneapolis.
FLANDRAU, CHARLES E.,	St. Paul.
HAHN, WILLIAM J.,	Minneapolis.
KITCHEL, STANLEY R.,	Minneapolis.
PAUL, A. C.,	Minneapolis.
SANBORN, JOHN B.,	St. Paul.
STEVENS, HIRAM F.,	St. Paul.
TIGHE, AMBROSE,	St. Paul.
WHELAN, RALPH,	Minneapolis.
YOUNG, GEORGE B.,	St. Paul.

MISSISSIPPI.

BOWERS, E. J.,	Bay St. Louis.
HOWRY, CHARLES B. (Washington, D. C.), . . .	Oxford.
MONTGOMERY, M. A.,	Oxford.
SOMERVILLE, THOMAS H.,	University.
THOMPSON, R. H.,	Jackson.

MISSOURI.

ALLEN, CHARLES CLAFLIN,	St. Louis.
ASHLEY, HENRY D.,	Kansas City.
BAKEWELL, PAUL,	St. Louis.
BALL, R. E.,	Kansas City.
BARCLAY, SHEPARD,	St. Louis.
BATES, CHARLES W.,	St. Louis.
BLAIR, ALBERT,	St. Louis.
BLAIR, JAMES L.,	St. Louis.
BOND, HENRY W.,	St. Louis.
BOYLE, WILBUR F.,	St. Louis.
BRYAN, P. TAYLOR,	St. Louis.
CHARLES, BENJAMIN H.,	St. Louis.
CHRISTIE, HARVEY L.,	St. Louis.
COCHRAN, ALEXANDER G.,	St. Louis.
CURTIS, WILLIAM S.,	St. Louis.
DEAN, O. H.,	Kansas City.
DOBSON, CHARLES L.,	Kansas City.
DONALDSON, WILLIAM R.,	St. Louis.
DOUGLAS, WALTER B.,	St. Louis.
ELIOT, EDWARD C.,	St. Louis.
FINKELNBURG, G. A.,	St. Louis.
FISSE, WILLIAM E.,	St. Louis.
FOWLER, A. C.,	St. Louis.
GANTT, JAMES B.,	Jefferson City.
GIBSON, JAMES,	Kansas City.
HAGERMAN, FRANK,	Kansas City.
HAGERMAN, JAMES,	St. Louis.
HARKLESS, JAMES H.,	Kansas City.
HITCHCOCK, HENRY,	St. Louis.
HOLMES, DANIEL B.,	Kansas City.
JUDSON, FREDERICK N.,	St. Louis.
KARNES, J. V. C.,	Kansas City.
KEHR, EDWARD C.,	St. Louis.
KING, S. H.,	St. Louis.
KLEIN, JACOB,	St. Louis.
LADD, SANFORD B.,	Kansas City.

MISSOURI.—Continued.

LATHROP, GARDINER,	Kansas City.
LAWSON, JOHN D.,	Columbia.
LEHMAN, FRED. W.,	St. Louis.
LIONBERGER, ISAAC H.,	St. Louis.
MADILL, GEORGE A.,	St. Louis.
McKEIGHAN, JOHN E.,	St. Louis.
McLEOD, W. D.,	Kansas City.
NAGEL, CHARLES,	St. Louis.
NEW, ALEXANDER,	Kansas City.
NOBLE, JOHN W.,	St. Louis.
OTTOFY, L. FRANK,	St. Louis.
PERRY, WILLIAM C.,	Kansas City.
PRATT, WALLACE,	Kansas City.
SEBREE, FRANK P.,	Kansas City.
SHERWOOD, ADIEL,	St. Louis.
SPENCER, SELDEN P.,	St. Louis.
TAUSSIG, JAMES,	St. Louis.
THAYER, AMOS M.,	St. Louis.
THOMPSON, WILLIAM B.,	St. Louis.
TICHENOR, CHARLES O.,	Kansas City.
TITUS, FRANK,	Kansas City.
TRIMBLE, J. McD.,	Kansas City.
WARD, HUGH C.,	Kansas City.
WILFLEY, LEBBEUS M.,	St. Louis.
WITHROW, JAMES E.,	St. Louis.
WOOD, JOHN M.,	St. Louis.

MONTANA.

CORBETT, FRANK E.,	Butte.
COTTER, JOHN W.,	Butte.
DIXON, WILLIAM W.,	Butte.
SANDERS, JAMES U.,	Helena.
SANDERS, WILBUR F.,	Helena.
SCALLON, WILLIAM,	Butte.

NEBRASKA.

AMES, JOHN H.,	Lincoln.
BARTLETT, EDMUND M.,	Omaha.
BAXTER, IRVING F.,	Omaha.
BRECKENRIDGE, RALPH W.,	Omaha.
BROGAN, FRANCIS A.,	Omaha.
CARROLL, WILLIAM J.,	Omaha.
COWIN, J. C.,	Omaha.

NEBRASKA.—Continued.

DEWEESE, J. W.,	Lincoln.
GREENE, CHARLES J.,	Omaha.
HALL, MATTHEW A.,	Omaha.
HARTIGAN, MICHEL A.,	Hastings.
KINKAID, M. P.,	O'Neill.
MAHONEY, TIMOTHY J.,	Omaha.
MANDERSON, CHARLES F.,	Omaha.
MARTIN, FRANCIS,	Falls City.
MONTGOMERY, CARROLL S.,	Omaha.
MUNGER, W. H.,	Fremont.
McHUGH, WILLIAM D.,	Omaha.
McINTOSH, JAMES H.,	Omaha.
SHEEAN, JAMES B.,	Omaha.
SLABAUGH, W. W.,	Omaha.
SMITH, HOWARD B.,	Omaha.
THURSTON, JOHN M.,	Omaha.
WAKELEY, ELEAZER,	Omaha.
WEBSTER, JOHN L.,	Omaha.
WHITE, BENJAMIN T.,	Omaha.
WILSON, HENRY H.,	Lincoln.
WOOLWORTH, JAMES M.,	Omaha.

NEW HAMPSHIRE.

ALBIN, JOHN H.,	Concord.
BATCHELLOR, ALBERT S.,	Littleton.
BRANCH, OLIVER E.,	Manchester.
BURLEIGH, ALVIN,	Plymouth.
BURNHAM, HENRY E.,	Manchester.
BURNS, CHARLES H.,	Wilton.
CHASE, IRA A.,	Bristol.
COLBY, JAMES F.,	Hanover.
CROSS, DAVID,	Manchester.
EASTMAN, SAMUEL C.,	Concord.
FELLOWS, JOSEPH W.,	Manchester.
FRINK, J. S. H.,	Portsmouth.
GREELY, ARTHUR P. (Washington, D. C.),	Concord.
KNIGHT, CHARLES H.,	Exeter.
STREETER, FRANK S.,	Concord.

NEW JERSEY.

ALLEN, ROBERT, JR.,	Red Bank.
APPLEGATE, JOHN S.,	Red Bank.
BERGEN, JAMES J.,	Somerville.

NEW JERSEY.—Continued.

BORCHERLING, CHARLES,	Newark.
CLEVINGER, WILLIAM M.,	Atlantic City.
COLIE, EDWARD M.,	Newark.
DICKINSON, S. MEREDITH,	Trenton.
DUNN, MICHAEL,	Paterson.
ELY, JOHN J.,	Freehold.
EMERY, JOHN R.,	Morristown.
FORT, J. FRANKLIN,	Newark.
GARRETSON, A. Q.,	Jersey City.
GOBLE, L. SPENCER,	Newark.
GOODELL, EDWIN B.,	Montclair.
GRANT, ALEXANDER, JR.,	Newark.
GREY, SAMUEL H.,	Camden
GRIGGS, JOHN W. (Washington, D. C.),	Paterson.
HAMILL, HUGH H.,	Trenton.
HARDIN, JOHN R.,	Newark.
HARTSHORNE, CHARLES H.,	Jersey City.
KEASBEY, EDWARD Q.,	Newark.
KENNY, EDWARD,	Newark.
LANNING, WILLIAM M.,	Trenton.
LYON, ADRIAN,	Perth Amboy.
MCCARTER, ROBERT H.,	Newark.
MCCARTER, THOMAS N.,	Newark.
PARKER, CORTLANDT,	Newark.
PARKER, FREDERICK,	Freehold.
PARKER, R. WAYNE,	Newark.
PINTARD, WILLIAM,	Red Bank.
RIKER, ADRIAN,	Newark.
SHIPMAN, GEORGE M.,	Belvidere.
SWAYZE, FRANCIS J.,	Newark.
TERBELL, WILLIAM J.,	Burlington.
VROOM, GARRET D. W.,	Trenton.
WILSON, WOODROW,	Princeton.
WOODRUFF, ROBERT S.,	Trenton.

NEW YORK.

ABBOT, EVERETT V.,	New York.
ASHLEY, CLARENCE D.,	New York.
AUB, THEODORE,	New York.
BACON, SELDEN,	New York.
BARTLETT, JOHN P.,	New York.
BEAMAN, CHARLES C.,	New York.
BELL, CLARK,	New York.

NEW YORK.—Continued.

BENEDICT, ROBERT D.,	New York.
BINNEY, HAROLD,	New York.
BISCHOFF, HENRY, JR.,	New York.
BROWN, ADDISON,	New York.
BRUNO, RICHARD M.,	New York.
BUCHANAN, CHARLES J.,	Albany.
BULLARD, E. F.,	New York.
BURDICK, FRANCIS M.,	New York.
BURR, CHARLES L.,	New York.
BUTLER, CHARLES HENRY,	New York.
BUTLER, WILLIAM ALLEN,	New York.
BUTLER, WILLIAM ALLEN, JR.,	New York.
BYRNE, JAMES,	New York.
CALLAGHAN, ALEXANDER J. A.,	New York.
CARPENTER, JAMES E.,	New York.
CARTER, JAMES C.,	New York.
CARTER, WALTER S.,	New York.
CHASE, GEORGE,	New York.
CHOATE, JOSEPH H.,	New York.
CLARK, MARTIN,	Buffalo.
COCKRAN, W. BOURKE,	New York.
COLLIER, M. DWIGHT,	New York.
COOK, WILLIAM W.,	New York.
CUNNEEN, JOHN,	Buffalo.
DANAHER, FRANKLIN M.,	Albany.
DAVIES, JULIAN T.,	New York.
DAVIES, WILLIAM GILBERT,	New York.
DAVIS, VERNON M.,	New York.
DEERING, JAMES A.,	New York.
DEPEW, CHAUNCEY M.,	New York.
DEUEL, JOSEPH M.,	New York.
DIKF, NORMAN S.,	New York.
DILLON, JOHN F.,	New York.
DOS PASSOS, JOHN R.,	New York.
DOTY, SPENCER C.,	New York.
DOUGHERTY, J. HAMPDEN,	New York.
DOYLE, LOUIS F.,	New York.
DUELL, CHARLES H. (Washington, D. C.),	Syracuse.
DUTTON, JOHN A.,	New York.
DWIGHT, EDWARD F.,	New York.
DYER, RICHARD N.,	New York.
EVARTS, WILLIAM M.,	New York.
EWING, HAMPTON D.,	Yonkers.
FEARONS, GEORGE H.,	New York.

NEW YORK.—Continued.

FIERO, J. NEWTON,	Albany.
FLEISCHMANN, SIMON,	Buffalo.
FLEMING, LORENZO D.,	New York.
FORBES, FRANCIS,	New York.
FOSTER, ROGER,	New York.
FOX, AUSTEN G.,	New York.
GARLAND, DAVID S.,	Northport.
GIBBS, CLINTON B.,	Buffalo.
GIFFORD, LIVINGSTON,	New York.
GILLEN, WILLIAM W.,	Jamaica.
GLEASON, JOHN H.,	Albany.
GOODELLE, WILLIAM P.,	Syracuse.
GRINNELL, W. MORTON,	New York.
GUNNISON, ROYAL A.,	Binghamton.
GUTHRIE, WILLIAM D.,	New York.
HAWES, GILBERT RAY,	New York.
HAWKESWORTH, R. W.,	New York.
HEERMANCE, MARTIN,	Poughkeepsie.
HERENDEN, EDWARD G.,	Elmira.
HODLY, GEORGE,	New York.
HORNBLOWER, WILLIAM B.,	New York.
HOTCHKISS, WILLIAM HORACE,	Buffalo.
HOYE, STEPHEN M.,	Brooklyn.
HUBBARD, HARRY,	New York.
HUBBARD, THOMAS H.,	New York.
HUFFCUT, E. W.,	Ithaca.
HUGHES, CHARLES E.,	New York.
HULL, GEORGE S.,	Buffalo.
INGALSBE, GRENVILLE M.,	Sandy Hill.
ISAACS, M. S.,	New York.
JACOB, EPHRAIM A.,	New York.
JELLINEK, EDWARD L.,	Buffalo.
JOHNSTON, THOMAS J.,	New York.
JOLINE, ADRIAN H.,	New York.
JONES, W. MARTIN,	Rochester.
KEENER, WILLIAM A.,	New York.
KELLOGG, L. LAFLIN,	New York.
KENYON, WILLIAM H.,	New York.
KIDDLE, ALFRED W.,	New York.
KILVERT, THOMAS,	New York.
KIRLIN, J. PARKER,	New York.
KLOCK, GEORGE S.,	Utica.
KNOX, CHARLES H.,	New York.
LAMBERTON, C. L.,	New York.

NEW YORK.—Continued.

LEAVITT, JOHN BROOKS,	New York.
LEVIS, HOWARD C.,	Schenectady.
LOGAN, WALTER S.,	New York.
MACFARLAND, W. W.,	New York.
MILBURN, JOHN G.,	Buffalo.
MILLER, PEYTON F.,	Albany.
MILLER, W. W.,	New York.
MILNOR, M. CLEILAND,	New York.
MITCHELL, CHARLES E.,	New York.
MOORE, JOHN BASSETT,	New York.
MOOT, ADELBERT,	Buffalo.
MORSE, WALDO G.,	New York.
MYERS, NATHANIEL,	New York.
MCCOOK, JOHN J.,	New York.
MCCRARY, A. J.,	Binghamton.
MCKINNEY, WILLIAM M.,	Northport.
MCLEAN, DONALD,	New York.
McNULTY, WILLIAM D. (New York, N. Y.), . .	Saratoga Springs.
NICHOLS, GEORGE L.,	New York.
NICOLSON, JOHN, JR.,	New York.
NORTON, CHARLES P.,	Buffalo.
OPDYKE, WILLIAM S.,	New York.
OSGOOD, HOWARD L.,	Rochester.
PARKER, ALTON B.,	Kingston.
PARMENTER, ROSWELL A.,	Troy.
PARSONS, HIN-DILL,	Schenectady.
PEABODY, CHARLES A.,	New York.
PERHAM, FREDERIC E.,	New York.
PETTY, ROBERT D.,	New York.
PIERCE, WINSLOW S.,	New York.
POTTER, FREDERICK,	New York.
PRIME, RALPH E.,	Yonkers.
PUTNAM, HARRINGTON,	New York.
QUACKENBUSH, JAMES L.,	Buffalo.
REDDING, JOSEPH D.,	New York.
REDDING, WILLIAM A.,	New York.
REEVES, ALFRED G.,	New York.
RICH, BURDETTE A.,	Rochester.
ROOT, ELIHU,	New York.
RUSSELL, ISAAC F.,	New York.
SCOTT, JAMES L.,	Saratoga Springs.
SEYMOUR, HENRY H.,	Buffalo.
SHACK, FERDINAND,	New York.
SMITH, JOHN SABINE,	New York.

NEW YORK.—Continued.

SMITH, NELSON,	New York.
SMITH, SIDNEY,	New York.
SPEIR, GILBERT M.,	New York.
STERNE, SIMON,	New York.
STETSON, FRANCIS LYNDE,	New York.
STILLMAN, THOMAS E.,	New York.
TAGGART, RUSH,	New York.
TAYLOR, JOHN D.,	New York.
THOMPSON, SEYMOUR D.,	New York.
TIEDEMAN, CHRISTOPHER G.,	Brooklyn.
TOMPKINS, HAMILTON B.,	New York.
TOWNS, MIRABEAU L.,	Brooklyn.
TREMAIN, HENRY E.,	New York.
TURNER, HERBERT B.,	New York.
VANAMEE, WILLIAM,	Newburgh.
VAN SLYCK, GEORGE F.,	New York.
VAN SLYCK, GEORGE W.,	New York.
VAN VECHTEN, A. V. W.,	New York.
VIEU, HENRY A.,	New York.
VILLARD, HAROLD G.,	New York.
WADHAMS, FREDERICK E.,	Albany.
WALKER, ALBERT H.,	New York.
WARD, HAMILTON,	Buffalo.
WARD, HENRY GALBRAITH,	New York.
WARNER, JOHN DEWITT,	New York.
WEEKS, WILLIAM R.,	New York.
WETMORE, EDMUND,	New York.
WHEELER, EVERETT P.,	New York.
WHITTAKER, EGBERT,	Saugerties.
WILCOX, ANSLEY,	Buffalo.
WILLCOX, DAVID,	New York.
WING, HENRY T.,	New York.
WISE, JOHN S.,	New York.
WOLLMAN, HENRY,	New York.

NORTH CAROLINA.

BIGGS, J. CRAWFORD,	Durham.
BRIDGERS, JOHN L.,	Tarboro.
BUSBEE, FABIVS H.,	Raleigh.
BUXTON, J. C.,	Winston.
CLEMENT, L. H.,	Salisbury.
HILL, THOMAS N.,	Halifax.
PATTERSON, LINDSAY,	Winston.
PRUDEN, WILLIAM D.,	Edenton.
WALKER, P. D.,	Charlotte.

NORTH DAKOTA.

BOSARD, JAMES H.,	Grand Forks.
BRENNAN, MICHAEL H.,	Devil's Lake.
COBBET, BURKE,	Grand Forks.
SPALDING, BURLEIGH FOLSOM,	Fargo.

OHIO.

ANDERSON, JAMES H.,	Columbus.
BECKWITH, GEORGE H.,	Toledo.
BLACKFORD, AARON,	Findlay.
BOWLER, ROBERT B.,	Cincinnati.
BRICE, HERBERT L.,	Lima.
BURKET, HARLAN F.,	Findlay.
BURKET, JACOB F.,	Findlay.
BURROWS, J. B.,	Painesville.
BUSHNELL, T. H.,	Cleveland.
CADWELL, JAMES P.,	Jefferson.
CALHOUN, PAT.,	Cleveland.
CARR, WILLIAM F.,	Cleveland.
CLARKE, JOHN H.,	Cleveland.
COLLINS, JAMES H.,	Columbus.
COLSTON, EDWARD,	Cincinnati.
COOK, E. S.,	Cleveland.
CUSHING, WILLIAM E.,	Cleveland.
DEMPSEY, JAMES H.,	Cleveland.
DICKMAN, FRANKLIN J.,	Cleveland.
DOYLE, JOHN H.,	Toledo.
DURBAN, FRANK A.,	Zanesville.
FERGUSON, E. A.,	Cincinnati.
FERRIS, AARON A.,	Cincinnati.
FOLLETT, ALFRED DEWEY,	Marietta.
FOLLETT, MARTIN DEWEY,	Marietta.
FULLER, CLIFFORD W.,	Cleveland.
GARFIELD, HARRY A.,	Cleveland.
GARFIELD, JAMES R.,	Cleveland.
GOFF, FREDERICK H.,	Cleveland.
GOULDER, HARVEY D.,	Cleveland.
GRANGER, MOSES M.,	Zanesville.
GRANGER, SHERMAN M.,	Zanesville.
GROOT, GEORGE A.,	Cleveland.
GUNCKEL, LEWIS B.,	Dayton.
HADDEN, ALEXANDER,	Cleveland.
HARMON, JUDSON,	Cincinnati.
HARPER, JACOB CHANDLER,	Cincinnati.

OHIO.—Continued.

HARRIS, STEPHEN R.,	Bucyrus.
HARRISON, RICHARD A.,	Columbus.
HENDERSON, JOHN M.,	Cleveland.
HEPBURN, CHARLES M.,	Cincinnati.
HERRICK, G. E.,	Cleveland.
HINES, CLARK B.,	Belleville.
HOADLY, GEORGE, JR.,	Cincinnati.
HOPKINS, E. H.,	Cleveland.
HOWLAND, PAUL,	Cleveland.
HOYT, JAMES H.,	Cleveland.
HUNT, SAMUEL F.,	Cincinnati.
JACKSON, WILLIAM H.,	Cincinnati.
JAHN, CARL G.,	Columbus.
JAMES, FRANCIS B.,	Cincinnati.
JELKE, FERDINAND, JR.,	Cincinnati.
JOHNSON, HOMER H.,	Cleveland.
JOHNSON, SIMEON M.,	Cincinnati.
JONES, ASAHEL W.,	Youngstown.
JONES, JAMES M.,	Cleveland.
JONES, RANKIN D.,	Cincinnati.
JOSEPH, EMIL,	Cleveland.
KENNON, NEWELL K.,	St. Clairsville.
KLINE, VIRGIL P.,	Cleveland.
LAWRENCE, JAMES,	Cleveland.
LEWENTHAL, A.,	Cleveland.
LOVELAND, FRANK O.,	Cincinnati.
MACKOY, WILLIAM H.,	Cincinnati.
MATTHEWS, C. BENTLEY,	Cincinnati.
MAXWELL, LAWRENCE, JR.,	Cincinnati.
MCKINLEY, WILLIAM (Washington, D. C.),	Canton.
MCMAHON, J. SPRIGG,	Dayton.
NORRIS, MYRON A.,	Youngstown.
PARKER, ROBERT S.,	Bowling Green.
PATTERSON, M. R.,	Columbus.
PECK, HIRAM D.,	Cincinnati.
PIKE, LOUIS H.,	Toledo.
QUAIL, FRANK A.,	Cleveland.
RANDALL, E. O.,	Columbus.
RANNEY, HENRY C.,	Cleveland.
ROBERTSON, C. D.,	Cincinnati.
SALTZGABER, GAYLARD M.,	Van Wert.
SANDERS, W. B.,	Cleveland.
SAYLER, JOHN RYNER,	Cincinnati.
SENEY, HENRY W.,	Toledo.

OHIO.—Continued.

SHAW, R. K.,	Marietta.
SMEDES, JOHN MARSHALL,	Cincinnati.
SMITH, ALEXANDER L.,	Toledo.
SMITH, H. LINDALE,	Cleveland.
SMITH, RUFUS B.,	Cincinnati.
SPEAR, WILLIAM T.,	Columbus.
SQUIRE, ANDREW,	Cleveland.
STEWART, GILBERT H.,	Columbus.
STOEHR, OSCAR,	Cincinnati.
STRONG, EDWARD W.,	Cincinnati.
SULLIVAN, JOHN D.,	Columbus.
SWAYNE, FRANCIS B. (New York, N. Y.),	Toledo.
TAFT, WILLIAM H.,	Cincinnati.
TALCOTT, WILLIAM E.,	Cleveland.
TOLLES, SHIRLEY H.,	Cleveland.
TROUP, JAMES O.,	Bowling Green.
WADE, DECIUS S.,	Andover.
WALD, GUSTAVUS H.,	Cincinnati.
WARRINGTON, JOHN W.,	Cincinnati.
WHEELER, SETH S.,	Lima.
WILLIAMSON, SAMUEL E.,	Cleveland.
WORTHINGTON, WILLIAM,	Cincinnati.
YOUNG, GEORGE R.,	Dayton.

OKLAHOMA TERRITORY.

ASP, HENRY E.,	Guthrie.
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OREGON.

CAREY, CHARLES H.,	Portland.
SCHNABEL, CHARLES J.,	Portland.

PENNSYLVANIA.

ALLINSON, EDWARD P.,	Philadelphia.
ANDRE, JOHN K.,	Philadelphia.
ASHHURST, RICHARD L.,	Philadelphia.
BAER, GEORGE F.,	Reading.
BAYARD, JAMES WILSON,	Philadelphia.
BECK, JAMES M.,	Philadelphia.
BEEBER, DIMNER,	Philadelphia.
BERTOLETTE, FREDERICK,	Mauch Chunk.
BISPHAM, GEORGE TUCKER,	Philadelphia.
BRIGHTLY, F. F.,	Philadelphia.

PENNSYLVANIA.—Continued.

BROWN, FRANCIS SHUNK,	Philadelphia.
BROWN, J. HAY,	Lancaster.
BROWN, JOHN A.,	Philadelphia.
BROWN, JOHN DOUGLASS, JR.,	Philadelphia.
BUCHER, JOSEPH C.,	Lewisburg.
BUDD, HENRY,	Philadelphia.
BURNETT, WILLIAM H.,	Philadelphia.
CARSON, HAMPTON L.,	Philadelphia.
CHAMBERS, FRANCIS T.,	Philadelphia.
CHRISTY, GEORGE H.,	Pittsburg.
CUYLER, THOMAS DEWITT,	Philadelphia.
DALE, RICHARD C.,	Philadelphia.
DANA, SAMUEL W.,	New Castle.
DICKSON, SAMUEL,	Philadelphia.
DUANE, RUSSELL,	Philadelphia.
FARQUHAR, GUY E.,	Pottsville.
FENTON, HECTOR T.,	Philadelphia.
FISHER, WILLIAM RIGHTER,	Philadelphia.
FOX, E. J.,	Easton.
FRALEY, JOSEPH C.,	Philadelphia.
GEYELIN, HENRY LAUSSAT,	Philadelphia.
GILBERT, LYMAN D.,	Harrisburg.
GRAHAM, GEORGE S.,	Philadelphia.
GREEN, BENJAMIN W.,	Emporium.
GRIFFITH, WARREN G.,	Philadelphia.
GUTHRIE, GEORGE W.,	Pittsburg.
HALL, WILLIAM M., JR.,	Pittsburg.
HAMMOND, WM. S.,	Altoona.
HARGEST, WILLIAM M.,	Harrisburg.
HARRITY, WILLIAM F.,	Philadelphia.
HEIGES, GEORGE W.,	York.
HEMPHILL, JOSEPH,	West Chester.
HENSEL, W. U.,	Lancaster.
HIESTER, ISAAC,	Reading.
HOWSON, CHARLES,	Philadelphia.
HUEY, SAMUEL B.,	Philadelphia.
HUNTER, ERNEST HOWARD,	Philadelphia.
JAYNE, H. LABARRE,	Philadelphia.
JONES, J. LEVERING,	Philadelphia.
JONES, RICHMOND L.,	Reading.
KAY, JAMES I.,	Pittsburg.
KEATOR, JOHN F.,	Philadelphia.
KNOX, P. C.,	Pittsburg.
KULP, GEORGE B.,	Wilkesbarre.

PENNSYLVANIA.—Continued.

LAMBERTON, WILLIAM B.,	Harrisburg.
LANCASTER, JOSEPH CAMPBELL,	Philadelphia.
LEAR, HENRY,	Doylestown.
LENAHAN, JOHN T.,	Wilkesbarre.
LEWIS, FRANCIS D.,	Philadelphia.
LEWIS, W. DRAPER,	Philadelphia.
LOGAN, JAMES A.,	Philadelphia.
MAFFETT, JAMES T.,	Clarion.
MARTIN, J. WILLIS,	Philadelphia.
MERCER, GEORGE GLUYAS,	Philadelphia.
MERCUR, RODNEY A.,	Towanda.
MERRILL, JOHN HOUSTON,	Philadelphia.
MERVINE, NICHOLAS P.,	Altoona.
MESTREZAT, S. LESLIE,	Uniontown.
MILLER, E. SPENCER,	Philadelphia.
MILLER, N. DUBOIS,	Philadelphia.
MORGAN, CHARLES E., JR.,	Philadelphia.
MORGAN, RANDAL,	Philadelphia.
MUHLENBERG, HENRY A.,	Reading.
MULLIN, EUGENE,	Bradford City.
MUNSON, C. LARUE,	Williamsport.
MCCARTHY, HENRY J.,	Philadelphia.
MCCCLINTOCK, ANDREW H.,	Wilkesbarre.
MCCCLUNG, WM. H.,	Pittsburg.
MCCCLURE, HARROLD M.,	Lewisburg.
MCCORMICK, HENRY C.,	Williamsport.
NICHOLS, H. S. P.,	Philadelphia.
NORTH, E. D.,	Lancaster.
NORTH, HUGH M.,	Columbia.
PALMER, HENRY W.,	Wilkesbarre.
PATTERSON, GEORGE S.,	Philadelphia.
PATTERSON, ROSWELL H.,	Scranton.
PATTERSON, T. ELLIOTT,	Philadelphia.
PATTERSON, THOMAS,	Pittsburg.
PEALE, S. R.,	Lock Haven.
PENNYPACKER, CHARLES H.,	West Chester.
PENNYPACKER, SAMUEL W.,	Philadelphia.
PEPPER, GEORGE WHARTON,	Philadelphia.
PERKINS, SAMUEL C.,	Philadelphia.
PETTIT, HORACE,	Philadelphia.
PRICHARD, FRANK P.,	Philadelphia.
RAWLE, FRANCIS,	Philadelphia.
REARDON, JOHN J.,	Williamsport.
RYON, WILLIAM W.,	Shamokin.

PENNSYLVANIA.—Continued.

SEIBERT, WILLIAM N.,	New Bloomfield.
SHAPLEY, RUFUS E.,	Philadelphia.
SHIELDS, J. M.,	Pittsburg.
SHIRAS, GEORGE, JR.,	Pittsburg.
SIMPSON, ALEXANDER, JR.,	Philadelphia.
SMEAD, A. D. B.,	Carlisle.
SMITH, WALTER GEORGE,	Philadelphia.
SNARE, JACOB,	Philadelphia.
STAAKE, WILLIAM H.,	Philadelphia.
STEWART, W. F. BAY,	York.
STILLWELL, JAMES C.,	Philadelphia.
STOEVER, WILLIAM C.,	Philadelphia.
STOUGHTON, A. B.,	Philadelphia.
STRAWBRIDGE, WILLIAM C.,	Philadelphia.
SULZBERGER, MAYER,	Philadelphia.
SWAIN, CHARLES M.,	Philadelphia.
TAYLOR, JOSEPH T.,	Philadelphia.
TODD, M. HAMPTON,	Philadelphia.
TOWNSEND, CHARLES C.,	Philadelphia.
TRICKETT, WILLIAM,	Carlisle.
WALKER, ROBERT J. C.,	Philadelphia.
WALLERSTEIN, DAVID,	Philadelphia.
WALTON, HENRY F.,	Philadelphia.
WATSON, D. T.,	Pittsburg.
WEAVER, JOHN,	Philadelphia.
WEIL, A. LEO,	Pittsburg.
WEISER, J. G.,	Middleburg.
WILCOX, WILLIAM A.,	Scranton.
WILLARD, EDWARD N.,	Scranton.
WILTBANK, WILLIAM W.,	Philadelphia.
WINDLE, WILLIAM S.,	West Chester.
WINTERNITZ, BENJAMIN A.,	New Castle.
WISF, JESSE H.,	Pittsburg.
WOLVERTON, SIMON P.,	Sunbury.
WOODWARD, FREDERIC C.,	Carlisle.
WOODWARD, STANLEY,	Wilkesbarre.
WORK, JAMES C.,	Uniontown.
YOUNG, JAMES S.,	Pittsburg.

RHODE ISLAND.

ANGELL, WALTER F.,	Providence.
ARNOLD, FRANK S.,	Providence.
BAKER, ALBERT, A.,	Providence.
BAKER, DARIUS,	Newport.

RHODE ISLAND.—Continued.

CURTIS, HARRY C.,	Providence.
EATON, AMASA M.,	Providence.
HOGAN, JOHN W.,	Providence.
JENCKES, THOMAS A.,	Providence.
MILLER, AUGUSTUS S.,	Providence.
MCGUINNESS, EDWIN D.,	Providence.
POTTER, DEXTER B.,	Providence.
ROELKER, WILLIAM G.,	Providence.
STEARNS, CHARLES F.,	Providence.
STINESS, JOHN H.,	Providence.
THURSTON, WILMARTH H.,	Providence.
TILLINGHAST, JAMES,	Providence.
WOODS, JOHN CARTER BROWN,	Providence.

SOUTH CAROLINA.

BUIST, GEORGE LAMB,	Charleston.
BUIST, HENRY,	Charleston.
JOHNSTONE, GEORGE,	Newberry.
MORDECAI, T. MOULTRIE,	Charleston.
SMYTHE, AUGUSTINE T.,	Charleston.
WOODS, CHARLES A.,	Marion.
YOUNG, HENRY E.,	Charleston.

SOUTH DAKOTA.

AIKENS, FRANK R.,	Sioux Falls.
BAILEY, CHARLES O.,	Sioux Falls.
CRAWFORD, COE I.,	Huron.
TRIPP, BARTLETT,	Yankton.
VOORHEES, JOHN H.,	Sioux Falls.
WELLS, ROLLIN J.,	Sioux Falls.

TENNESSEE.

BAXTER, ED.,	Nashville.
BAXTER, E. J.,	Jonesboro.
BONNER, J. W.,	Nashville.
BRADFORD, J. C.,	Nashville.
CAMP, E. C.,	Knoxville.
CAMPBELL, LEMUEL R.,	Nashville.
CARROLL, WILLIAM H.,	Memphis.
COOPER, EDMUND,	Shelbyville.
GILLHAM, GEORGE,	Memphis.
INGERSOLL, HENRY H.,	Knoxville.
JACKSON, ROBERT F.,	Nashville.
LEA, OVERTON,	Nashville.

TENNESSEE.—Continued.

MALONE, JAMES H.,	Memphis.
MALONE, THOS. H.,	Nashville.
MARKS, ALBERT D.,	Nashville.
PILCHER, JAMES S.,	Nashville.
RAMAGE, B. J.,	Sewanee.
SANFORD, EDWARD T.,	Knoxville.
SWANEY, W. B.,	Chattanooga.
TILLMAN, A. M.,	Nashville.
TILLMAN, GEORGE N.,	Nashville.
VAN DEVENTER, HORACE,	Knoxville.
VERTREES, J. J.,	Nashville.
YOUNG, DAVID K.,	Clinton.

TEXAS.

CLARK, WILLIAM H.,	Dallas.
COKE, HENRY C.,	Dallas.
DILLARD, F. C.,	Sherman.
GAINES, R. R.,	Austin.
GOULD, ROBERT S.,	Austin.
LINDSLEY, PHILIP,	Dallas.
MILLER, T. S.,	Dallas.
SAMUELS, SIDNEY L.,	Fort Worth.
SMITH, ROBERT WAVERLY,	Galveston.
TERRY, J. W.,	Galveston.
WEST, ROBERT G.,	Austin.

UTAH.

SHEPARD, RICHARD B.,	Salt Lake City.
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VERMONT.

BARBER, O. M.,	Arlington.
BUTTON, FREDERICK H.,	Rutland.
BUTTON, WM. H.,	Middlebury.
McCULLOUGH, JOHN G.,	No. Bennington.
TAFT, ELIHU B.,	Burlington.
WEISER, J. G.,	Middlebury.
WILDS, CHARLES M.,	Middlebury.

VIRGINIA.

ANDERSON, WILLIAM A.,	Lexington.
CABELL, JAMES ALSTON,	Richmond.
CATON, JAMES R.,	Alexandria.
COKE, JOHN A.,	Richmond.

VIRGINIA.—Continued.

CONRAD, HOLMES,	Winchester.
GARNETT, THEODORE S.,	Norfolk.
GILLIAM, MARSHALL M.,	Richmond.
GILMORE, JAMES H.,	Marion.
GLASGOW, WILLIAM A., JR.,	Roanoke.
GRAVES, CHARLES A.,	Lexington.
GREGORY, ROGER,	Richmond.
GRIFFIN, S.,	Bedford City.
GUY, JACKSON,	Richmond.
HAMILTON, ALEXANDER,	Petersburg.
HATTON, GOODRICH,	Portsmouth.
HENRY, WM. WIRT,	Richmond.
HUGHES, ROBERT M.,	Norfolk.
LEWIS, LUNSFORD L.,	Richmond.
MUNFORD, BEVERLEY B.,	Richmond.
McRAE, WILLIAM P.,	Petersburg.
PAGE, ROSEWELL,	Richmond.
PATTESON, S. S. P.,	Richmond.
PICKRELL, JOHN,	Richmond.
PRENTIS, ROBERT R.,	Suffolk.
RITCHIE, JOHN,	Norfolk.
SEATON, EMMETT,	Richmond.
SMITH, WILLIS B.,	Richmond.
THOM, ALFRED P.,	Norfolk.
TUCKER, HENRY ST. GEORGE,	Lexington.
WATTS, LEGH R.,	Portsmouth.
WILLIAMS, CHARLES U.,	Richmond.
WILLIAMS, E. RANDOLPH,	Richmond.

WASHINGTON.

FORSTER, GEORGE M.,	Spokane.
HANFORD, C. H.,	Seattle.
HUGHES, E. C.,	Seattle.
SHEPARD, CHARLES E.,	Seattle.

WEST VIRGINIA.

AMBLER, B. MASON,	Parkersburg.
ARCHER, V. B.,	Parkersburg.
HIGGINBOTHAM, C. C.,	Buckhannon.
HUBBARD, WILLIAM P.,	Wheeling.
HUTCHINSON, JOHN F.,	Parkersburg.
MERRICK, CHARLES D.,	Parkersburg.
TURNER, SMITH D.,	Parkersburg.
VAN WINKLE, W. W.,	Parkersburg.

WISCONSIN.

BARBER, CHARLES,	Oshkosh.
BARBER, F. J.,	Oshkosh.
BARNES, LYMAN E.,	Appleton.
BARTLETT, WILLIAM PITT,	Eau Claire.
BASHFORD, R. M.,	Madison.
BOTTUM, E. H.,	Milwaukee.
BURKE, JOHN F.,	Milwaukee.
BURNELL, GEORGE W.,	Oshkosh.
BUSHNELL, ALLEN R.,	Madison.
CARY, ALFRED L.,	Milwaukee.
FAIRCHILD, H. O.,	Green Bay.
FLANDERS, JAMES G.,	Milwaukee.
FRAWLEY, THOMAS F.,	Eau Claire.
FROST, EDWARD W.,	Milwaukee.
GILSON, N. S.,	Fond du Lac.
GRACE, H. H.,	West Superior.
GREENE, GEORGE G.,	Green Bay.
GREGORY, CHARLES NOBLE,	Madison.
HANSEN, OTTO R.,	Milwaukee.
HUNTER, CHARLES F.,	Milwaukee.
JEFFRIS, MALCOLM G.,	Janesville.
JENKINS, JAMES G.,	Milwaukee.
JONES, BURR W.,	Madison.
KERWIN, J. C.,	Neenah.
LEWIS, H. M.,	Madison.
LUDWIG, JOHN C.,	Milwaukee.
MILLER, B. K.,	Milwaukee.
MILLER, GEORGE P.,	Milwaukee.
MORRIS, HOWARD,	Milwaukee.
OGDEN, LEWIS M.,	Milwaukee.
ORTON, PHILO A.,	Darlington.
PERELES, JAMES M.,	Milwaukee.
PERELES, THOMAS JEFFERSON,	Milwaukee.
PHILLIPS, M. C.,	Oshkosh.
QUARLES, CHARLES,	Milwaukee.
QUARLES, JOSEPH V.,	Milwaukee.
SEAMAN, WILLIAM H.,	Sheboygan.
SIEBECKER, ROBERT G.,	Madison.
SPOONER, CHARLES P.,	Milwaukee.
SPOONER, JOHN C.,	Madison.
STAFFORD, W. H.,	Chippewa Falls.
STARK, JOSHUA,	Milwaukee.
STEVENS, BREEZE J.,	Madison.
TENNEY, DANIEL K.,	Madison.

WISCONSIN.—Continued.

THOMPSON, A. E.,	Oshkosh.
TURNER, W. J.,	Milwaukee.
VAN DYKE, GEORGE D.,	Milwaukee.
VAN DYKE, WILLIAM D.,	Milwaukee.
VILAS, EDWARD P.,	Milwaukee.
VRAMAN, CHARLES E.,	Green Bay.
WEBSTER, W. H.,	Oconto.
WIGMAN, J. H. M.,	Green Bay.
WINKLER, FREDERICK C.,	Milwaukee.

WYOMING.

BROWN, MELVILLE C. (Juneau, Alaska),	Laramie.
BURKE, TIMOTHY F.,	Cheyenne.
CORN, SAMUEL T.,	Cheyenne.
CORTHELL, NELLIS E.,	Laramie.
FOWLER, BENJAMIN F.,	Cheyenne.
KNIGHT, JESSE,	Cheyenne.
LACEY, JOHN W.,	Cheyenne.
POTTER, CHARLES N.,	Cheyenne.
RINER, JOHN A.,	Cheyenne.
VAN DEVANTER, WILLIS (Washington, D. C.), .	Cheyenne.

RECAPITULATION.

STATES.	NO. OF MEMBERS.	STATES.	NO. OF MEMBERS
Alabama,	8	Montana,	6
Arizona,	6	Nebraska,	28
Arkansas,	13	New Hampshire,	15
California,	17	New Jersey,	37
Colorado,	26	New York,	173
Connecticut,	40	North Carolina,	9
Delaware,	12	North Dakota,	4
District of Columbia,	55	Ohio,	104
Florida,	8	Oklahoma Territory,	1
Georgia,	40	Oregon,	2
Idaho,	3	Pennsylvania,	136
Illinois,	110	Rhode Island,	17
Indian Territory,	2	South Carolina,	7
Indiana,	65	South Dakota,	6
Iowa,	28	Tennessee,	24
Kansas,	4	Texas,	11
Kentucky,	27	Utah Territory,	1
Louisiana,	20	Vermont,	7
Maine,	23	Virginia,	32
Maryland,	68	Washington,	4
Massachusetts,	116	West Virginia,	8
Michigan,	76	Wisconsin,	53
Minnesota,	11	Wyoming,	10
Mississippi,	5		
Missouri,	62	Total,	1,540

APPENDIX.

THE PRESIDENT'S ADDRESS,

BY

CHARLES F. MANDERSON,

PRESIDENT,

OF OMAHA, NEBRASKA.

Gentlemen of the American Bar Association :

The dawning of the twentieth century sees this organization of lawyers enter upon the twenty-third year of its existence.

In August, 1878, a few members of our noble profession met in conference and, acting on the belief that much of good would, and no evil could, result from forming a National Association, akin to those that had been created in districts and states, they framed a Constitution that without material change has guided us since its adoption.

The first President, Hon. James O. Broadhead, declared, with prophetic ken, that the Association would not be ephemeral and should address itself honestly and earnestly to the great objects properly within its scope, watch the progress of events as they occur and be ready to act upon all matters of importance when the need arrives, seeking to avoid becoming an agitator and aiming rather to codify and harmonize than to revolutionize or reform the law.

The high purpose and lofty aim of the founders is well expressed in its constitution. It declared the object to be "to advance the science of jurisprudence, promote the administration of justice and uniformity of legislation throughout the Union, uphold the honor of the profession of law and encourage cordial intercourse among the members of the American Bar."

It has justified its existence by its accomplishments. The persistent industry and acknowledged ability of its members, whether exerted in private capacity, on its committees, or at

its annual meetings, has accomplished many of the ends in view and been productive of good to the general public.

The twenty-two volumes of its reports embody the best legal literature of the Nineteenth Century. The addresses made and the papers read cover a vast range of subjects, are the result of professional experience based upon years of activity in practice and are prepared out of love for our calling and due regard for its lofty mission. They inculcate the highest degree of ethics and move in advance of many needed reformatory changes.

The addresses of its Presidents contain, besides other matters of "great pith and moment," the most noteworthy changes in statute law, year after year, on points of general interest, made in the several states and by the Congress. Emanating from such guiding lights of the profession as Broadhead, Bristow, Phelps, Potter, Lawton, Parker, Stevenson, Butler, Semmes, Wright, Field, Hitchcock, Baldwin, Dillon, Tucker, Cooley, Carter, Storey, Woolworth, and Howe, representing all sections of the Republic and famous in every part of it, these articles form an invaluable contribution to our legal literature and constitute the truthful record of events, the interesting progress of legislation and the onward march of jurisprudence.

The annual addresses cover subjects of intense interest to the student of law and the practitioner, giving both to the office and at the bar of the court the knowledge that means substantial achievement. The law makers of the Republic find a mine of wealth in Storey on the American Legislature, Griggs on Law Making, Semmes on Civil Law, Hoadly on Codification, Carter on The Ideal and the Actual in the Law, and Hitchcock on General Corporation Laws. The statesman receives guiding light from Lord Russell on International Law and Arbitration, Dillon on American Institutions, Tucker on British Institutions and American Constitutions, Lindsay on Acquiring and Governing Foreign Territory, Baldwin on the Centenary of Modern Government, and Brown on the Dis-

tribution of Property. The practicing lawyer knows better how to handle the working tools of his profession after reading Biddle on Proper Mode of Trial, Russell on the Delay and Uncertainty of Courts, Taft on the Federal Judiciary, and Choate on Trial by Jury.

In the ninety-four papers that have been read by notable members of the Bar, before the Association in its open sessions and before the Sections of Legal Education and Patent Law, every conceivable branch of the law, in its ethics, its philosophy, its policy and its practice, has been discussed. The evolution of jurisprudence, its relation to social science, the opportunity for its development and its future; the limitations and requirements of legal education, the best training for the lawyer, his rights, responsibilities and duties to his client, the public and himself; the powers of Congress, the limitations of legislative functions, the partition of powers between the Federal and State governments and the prevention of defective and slipshod legislation; the national and local judicial systems, the decisions of the courts and the great dissenting opinions; the important questions incident to public, municipal and private corporations, contracts, bankruptcy, patents, elections, treaties, inter-state commerce, injunctions, trusts, strikes, extradition, habeas corpus, crimes—all these have received comment, based upon much investigation and mature judgment, derived from practical knowledge.

But the Association has not rested content with mere theorizing. It has profited by the teaching of the leaders of thought and brought about many of the reforms so ably advocated.

In an address delivered in 1895 that able Jurist, Mr. Justice Brewer, seeking for the methods by which our profession should maintain its prominence and continue to lead and direct that social organism or "association of all individuals whose mingled labors have achieved the present and will work out the future of human life and destiny," said: "A better education is the great need and the most important reform. The

door of admission to the bar must swing on reluctant hinges, and only he be permitted to pass through, who has by continued and patient study, fitted himself for the work of a safe counselor and the place of a leader." Rapid strides have been made toward the accomplishment of the desires of the learned Justice since he wrote the words quoted.

Our Section of Legal Education has displayed an activity and persistence that has brought about a more thorough system of instruction, a higher standard in our law schools, a more careful scrutiny of the capacity of applicants for admission, the creation of State Boards of Examiners and a near approach to uniformity of the statutes governing those who would enroll themselves as lawyers.

Mr. Choate says that the result has challenged the admiration of jurists everywhere and declares that "this development of professional education and training is the best fruit yet born from the careful studies and labors of the Association."

Much has been said of the advisability and the many benefits derivable from uniformity of statutes among the states. We cannot over-estimate the importance of uniform laws upon matters incident to commercial law, such as acts relating to negotiable instruments and bills of exchange, concerning days of grace and the collection of debts. If the laws relating to deeds, wills, and descent, were alike the country over, the best legislation surviving, how much of needless, expensive and troublesome litigation would be saved.

It has been truly said "like mindedness is the cause of all social stability." The instability of the relation of marriage, the frauds perpetrated upon non-resident defendants and upon the courts, the destruction of domestic happiness and the misery to children, incident to the present diversity of divorce laws in the states, need not be dilated upon. A uniform divorce law would help to maintain and sanctify that safeguard of American life—the home.

Although much has been done by the Association through the medium of the Conference of the State Commissions on

Uniform State Laws, which have their being in thirty-two states, there is much yet to be done. The Negotiable Instrument Act framed by our committee and recommended by the Commissioners is already the law, by Act of Congress, in the District of Columbia and in fifteen of the states and has received favorable recommendation in many others, and on many other lines of legislation, enactments of substantial uniformity obtain.

The Committee on Law Reporting and Digesting made a valuable report in 1898 calling the attention of the Bench and Bar to some of the evils of our present system of reporting the decisions of the higher courts. The profession is over-burdened with books of reports and the present system, or rather lack of system, in digesting, needs the reforms suggested by the committee. The duplication of matters decided, so unnecessary and burdensome, the absence of uniformity, so confusing and time-wasting, the multiplicity of cases, so needless and trying, and the length of many of the opinions rendered, are all matters needing the reforms suggested. Certainly all can heartily agree with the suggestion of the committee in its last report, that "it would be a relief to the profession if judges would refrain from writing long discussions of questions of law that are well settled and from making long quotations from former opinions and numerous citations in support of conclusions on which there is no difference of opinion."

A move in the right direction, reaching to uniformity and preventing confusion, has been adopted, by rules of court in some states and by statute in others, by which cases on appeal shall retain the title of the case below without reversing the order of names and that the name of the plaintiff below should be the first in order.

The Committee on Commercial Law has labored with success in bringing about important changes in the statutes. Its deliberations and conclusions in regard to the Bankrupt Law have been of great value and met with the general approval of the mercantile community. The Attorney General of the United

States has quoted from the report extensively and with unqualified commendation and it has been the basis of much remedial legislation. We are gratified to know that another report from the committee on the important subject of the Bankrupt Law can be expected at this annual meeting.

The Committee on International Law was charged with the duty of bringing the work of the Conference at the Hague, held in the year 1899, to the attention of the President and the Senate, and urge that such steps be taken as might be proper to bring about the adjustment of controversies between nations, through the medium of international arbitration. The committee supplemented its years of laborious effort to bring about the reign of peace by successfully accomplishing the wish of the Association.

In the address of the acting President last year much time was devoted to the effort made by the representatives of twenty-six of the nations of the world, who met on the invitation of the Czar of Russia, to bring about the disarmament of Europe, the maintenance of general peace and find means for avoiding the calamities which menace the entire world. The hope was expressed "that the powers might gradually be brought together, in a friendly spirit, on all subjects of difference that may arise, until at last they shall be welded together in some international constitution, which shall give to the world, as the result of their great strength, a long spell of unfettered commerce, prosperous trade and continued peace." With this expression of the hope there was the declared fear that the period when nations would war no more was probably far in the dim and distant future and that "national jealousies, commercial competition, desire for expansion, imperialistic ideas, would not down while men, combatting individually for supremacy, give to the state the same combative instincts and desire for advancing power."

Sad to say, the Hague Conference that seemed to be the rainbow of promise, appeared rather to be the signal for increased armies instead of disarmament, and renewed activity

in preparation for conflict. Within the present year every European power whether at peace or war (save Italy suffering from poverty induced by an army already too large) has increased its war budget by millions of money and the number of its troops by thousands of men: France 5,000; Germany 33,000; Austria-Hungary 10,000, and Great Britain, because of the trouble in South Africa, 240,000.

War is in the air. Our own Republic, with its comparatively small army of 65,000 regulars and 35,000 volunteers, is combatting armed resistance to our lawful and legitimate sovereignty in the Philippine Islands and seeks to establish there that self-government which "insures domestic tranquility" and an orderly condition that will preserve life, guard liberty and permit the pursuit of happiness. At the same time we have an armed force in China, acting in united effort with the European powers and Japan in the policing of that ancient Empire and attempting to bring about the protection of persons and property, the sustaining of law and order, the safety of our accredited Minister and the members of the Legation and the maintaining of treaty obligations voluntarily assumed.

Great Britain with her army of over 500,000, is using the greater part in her unfortunate conflict with the Boers. Africa and Asia are witnesses of bloody conflicts and Europe, trembling with anxiety, fears that her domestic peace may be disturbed and Moloch reign.

But let us not despair. Even if the evolution of perpetual peace seems farther off than a year ago still there is much that can be done by our committee and by the Association in mitigating the horrors of war and to humanize some of its brutality.

I have thought it well at this close of an eventful century and the beginning of another, which bids fair to be one of still greater progress for the best good of mankind, to state, with, I fear, tiresome detail, the purposes of the American Bar Association and its accomplishments, so that not only the profession but the general public might judge of us by our works

and obtain a fair estimate of what may yet be wrought in the future.

OBITUARIES.

Our roll of the honored and noble dead increases with the passing years.

In the address of the Acting President delivered last year, it was his sad duty to comment upon the death, during the preceding year, of a number of members of the Association and to refer to the chief incidents in the lives of those who were the most prominent and the best known to the country.

Among them was one who had served a long time in the Senate of the United States, was Secretary of State and Ambassador to the Court of St. James; another, who, after a distinguished service in the Senate, added, as Attorney General of the United States, to his fame and won new laurels, after retirement to private life, in the active practice of his profession; a third, after a career of renown upon the highest bench of his state, was called to the Supreme Court of the Republic and remained there, to its great advantage, for nearly thirty-five years; a fourth was an able lawyer, an accomplished author and an ex-President of our Association.

Judges, diplomatists, senators: they were leaders all. Truly, "death loves a shining mark."

Of the twenty-two Presidents who have served as the Heads of this national organization, eleven have joined the great majority. The roll of living members of the American Bar Association is a lengthy one. A list of those who have left us would be much longer and bring to us saddening memories of the past.

On March 9th, 1900, the end of life came to

EDWARD JOHN PHELPS,

our third President. His career as lawyer, educator, and public official, was one of distinguished service to his State and country.

Born July 11th, 1822, and receiving the solid and substantial training of the New England schools of his early days, he was soon sought out by those needing the professional services of a man learned in the law. After an active practice of ten years he became the Second Comptroller of the government treasury, winning reputation by the soundness of his opinions. He was a member of the Constitutional Commission of Vermont in 1870, was professor of law in Yale College, his lectures showing great learning, and in 1885 was appointed by President Cleveland as Envoy Extraordinary and Minister Plenipotentiary to Great Britain.

To whatever position he was called he filled it to its utmost capacity. No lawyer in the Eastern states was connected during the last half century with more important cases than Mr. Phelps. His last valuable public service was as counsel for the United States, in 1893, in the Bering Sea tribunal, when his advocacy of the interests of his client was a prime factor.

A political opponent says of him, "he was first of all an American, whose patriotism was never under suspicion and who honored his country not by declaiming, but by exemplifying its highest virtues."

WILLIAM CROWNINSHIELD ENDICOTT,

another distinguished son of New England, born November 26th, 1826, at Salem, Massachusetts, died in Boston, May 9th, 1900.

He was a lineal descendant of colonial Governor John Endicott. Called to the bar in 1850, he soon had a large practice which he abandoned in 1873, to accept an appointment as Associate Justice of the Supreme Court of Massachusetts. He remained on the bench until 1882, when he resigned. He was the candidate of the minority party to which he belonged three times for Attorney General and once for Governor. He held the portfolio of the War Office during the first term of President Cleveland.

Of ripe scholarship, a sound lawyer, and possessed of excellent executive ability, he commanded the respect of all with whom he dealt, as his gentle nature won the affection and esteem of all associates.

Those of us who were in Buffalo last year remember with delight the warm words of welcome of the leading lawyer of that city,

SHERMAN SKINNER ROGERS.

His modest demeanor, earnest but quiet eloquence, and impressive manner, all evidencing a reserve power equal to any emergency, showed him to be the natural leader of his fellows. He had practiced his profession in its fore-front since 1854 and no man was more closely allied to the great interests of Western New York.

He had been a member of the Constitutional Convention of the state; a Senator in the New York Legislature; Commissioner of the Niagara Falls Reservation and president for many years of the Reform Association of the beautiful city of his home.

He, too, has passed away, leaving a fragrant memory.

"All heads must come
To the cold tomb—
Only the actions of the just
Smell sweet, and blossom in the dust."

America mourned with England when there came the sad news that

LORD RUSSELL OF KILLOWEN,

Lord Chief Justice of England, had been smitten by the hand of death. Those of us who had the good fortune to be present at the meeting of the Association in 1896 remember the pleasure with which we heard his eloquent address on "International Law and Arbitration" and all were charmed with the delightful personality of this great jurist. He truthfully said that he did not feel a stranger amongst us and that we did

not regard him as a stranger. He spoke of Englishmen and Americans as speaking the same language; as administering laws based upon the same juridical conceptions; as co-heirs in the rich traditions of political freedom long established, and as enjoying in common a literature, the noblest and purest the world has known. "Beyond this," he said "the unseen 'crimson thread' of kinship, stretching from the mother Islands to your great Continent unites us, and reminds us also that we belong to the same, though a mixed racial family * * * combining at once territorial dominion, political influence and intellectual force greater than History records in the case of any other people."

The voice of the matchless orator will be heard never again, but the great principles for which he contended have made rapid advances because of his mighty advocacy.

Fitting tribute will, I hope, be paid at this meeting to the memory of him whose fame was confined to the limits of no country, but extended the civilized world over.

STATE BAR ASSOCIATIONS.

We are pleased to note a constant increase in the number and a strengthening of the influence and power of the Bar Associations in states, judicial districts, counties and towns.

Nearly three hundred have reported their existence to our Secretary. They are the bulwark of professional ethics and the safeguard of our calling, having as their chief purpose the public good. They have elevated the standard of qualifications for admission to the bar, prompted the revision and perfection of codes, reformed many defective statutes, brought about uniformity in many laws, aided the more perfect administration of justice and added to the literature of the country much matter to enlighten and to elevate.

I repeat the recommendation of one year ago that steps should be taken to bring the Bar Associations of the states in closer affiliation with that of the Nation.

JOHN MARSHALL DAY.

A year ago the Illinois State Bar Association presented a resolution to the American Bar Association proposing that February 4th, 1901, being the one hundredth anniversary of the day when the great Chief Justice took his seat in the Supreme Court of the United States, should be appropriately observed by the courts, the bar and the people and that suitable ceremonies take form and place, commemorative of the great national event.

Our Association favored this laudable project and a committee of fifty-one was appointed, of which the Honorable William Wirt Howe is Chairman, charged with the duty of publishing an address to the legal profession of the United States and of preparing suggestions for the observance of the day. The committee was given full power to act and it has acted by publishing an admirable address in which it declares this "soldier, student, advocate, diplomatist, statesman and jurist was one of the finest types of American manhood in its best estate" and declares most truthfully that "his fame is the heritage of the Nation."

It is proposed that commemoration services be held at the national capitol under the direction of the Supreme Court, with the aid and support of the President and the Congress. It is also suggested that on that day judicial business cease and that state, city and county Bar Associations participate in proper exercises and that similar ceremonies be held in all American colleges, law and public schools, "to the end that the youth of our country may be made more fully acquainted with Marshall's noble life and distinguished services."

These ceremonials, properly conducted, will be educational and give to the youth of the land fresh impulses of patriotism and a higher appreciation of the master mind that found the constitution of the Republic "paper and made it power," that in construing its meaning gave vital force and sustaining energy to its terms and "showed, beyond all possibility of doubt, that

a government rightfully administered under its authority could protect itself against itself and against the world." "Marshall's fame," said Judge Story, "will follow on to the distant ages. Even if the constitution of this country should perish, his glorious judgments will still remain to instruct mankind until liberty shall cease to be a blessing and the science of jurisprudence shall vanish from the catalogue of human pursuits."

It is hoped that every member of this Association will actively aid in fitting celebration of John Marshall Day.

INTERNATIONAL BUREAU FOR THE UNIFICATION OF THE LAW.

Civilized nations teach and are taught by each other. While striving each for its own material advancement, alive to its own interest, active in self-aggrandizement, it is an encouraging sign that the great Powers meet in frequent Conferences and International Congresses. In the arts and sciences, in the field of invention, in medicine and in the law of nations, opinions are interchanged, debate had and one learns from the other to the mutual advantage of all.

If in these comparatively unimportant matters there is to be this peaceful conflict of minds, of how much greater value would it be if the nations of the world could learn of each other the better methods and the best results to be obtained by and from legislation.

The advantages derivable from the study of comparative law cannot be overestimated. Intelligent comparison would inevitably lead to the selection of the fittest and the adoption by all of that which is the best product of the law makers. The crude and experimental would give way to the tried and proven. Unification of many of the laws incident to trading intercourse, governing commercial paper, regulating the collection of debts and the enforcement of contracts and the like would surely come and with it better mercantile relations, less of ruinous conflict and useless and expensive litigation. In Markby's treatise on the Elements of Law, he says that that

which elevates law into a science is that "we seek in the law and literature of other countries, enlightenment as to the law of our own, and with this aid we endeavor to acquire and to express our legal principles and to define accurately our technical terms." Comparison alone leads to appreciation of that which is good and just and inevitably brings us to the correction of that which is bad.

The example set by this Association in its efforts to bring about unification of the laws of the states is bearing fruit. Your President lately received from Honorable John Hay, Secretary of State, the following letter:

"DEPARTMENT OF STATE, WASHINGTON, July 21, 1900.

The Honorable Charles F. Manderson, President of the American Bar Association, Omaha, Nebraska.

SIR:—This Department has received a dispatch from the United States Ambassador at Paris, submitting an interesting Memorandum prepared by Mr. Edmond Kelly, a delegate from the United States to the international Congress of Law now sitting at Paris, in which he sets forth considerations regarding the creation of an International Bureau for the collection and utilization of the world's legislation.

Inasmuch as your Association is doing for this country substantially what Mr. Kelly proposed should be done by a Central Bureau with respect to the legislation of the states of the world, I have the honor to enclose herewith for your consideration copies of General Porter's dispatch and its accompanying memorandum.

The Department understands that one of the aims of the American Bar Association is to accomplish a unification of the laws of the several states, through the proposal by the Association of a uniform law on a given subject, which project of law is then, through the several state Bar Associations, submitted to their legislatures and its passage urged. The conception of the creation and object of the projected Interna-

tional Bureau appears therefore to be a development of the American idea.

It is appreciated that the collection and publication of the principal pieces of legislation of the civilized states of the world from year to year by a Central Bureau might greatly facilitate the study of comparative jurisprudence, and by its enlightening influence tend to the amelioration of the common law, as well as of the municipal law of nations.

Before, however, instructing General Porter in the matter, an expression of your views on the general proposition is requested.

I am, sir, your obedient servant,

JOHN HAY."

Accompanying this was the first enclosure as follows :

" EMBASSY OF THE UNITED STATES, PARIS, June 30, 1900.

SIR:—Mr. Edmond Kelly, who, as the Department is aware, acts occasionally as Counsel to this Embassy and who is a lawyer, well versed in international law, desires me to submit to you the enclosed memorandum regarding the creation of a Central Bureau having for its object the collecting and the utilization of material of annual legislation over the entire world with the view of unifying the law. Mr. Kelly suggests, therefore, that a proposition be introduced in the Congress of International Law, now sitting in Paris and of which he is a delegate for the United States, inviting all the nations of the world to hold a Congress in Paris during the year 1901, for the purpose of creating a bureau on the line indicated by him and represents that such a proposition would have more weight if the State Department were to express some approval of the plan. I commend Mr. Kelly's suggestion to your attention.

I have, etc.

HORACE PORTER.

The memorandum referred to in Ambassador Porter's letter as coming from Mr. Edmond Kelly is as follows :

MEMORANDUM.

REGARDING PROPOSALS TO THE CONGRESS ON COMPARATIVE
LAW, SUBMITTED FOR APPROVAL BY THE STATE
DEPARTMENT.

There are numerous associations now engaged in the study of comparative law; some of them are composed of practicing lawyers, as in the "Société de Legislation Comparee" of the City of Paris; some form part of a university, as in the Columbian University at Washington. All bodies now engaged in the study of comparative law are confronted by two difficulties:

- 1°. As to the collection of their material.
- 2°. As to the application of the material when collected.

I. AS REGARDS COLLECTION OF MATERIAL.

It is practically impossible for the professor of an American University to make an intelligent abstract of the legislation of a foreign country, owing to the ignorance under which he must labor regarding the conditions which made this legislation necessary. I myself experienced this difficulty when engaged as a member of the "Société de Legislation Comparee" in making an abstract of the legislation of my own state of New York, in spite of the fact that I was not unfamiliar with the decisions of the courts and the political situation there; and I observed the difficulty under which my French colleagues in the society suffered when they endeavored to make abstracts of the laws of other states. It may be stated, I think, without fear of contradiction, that no body of men consisting entirely of one nation is capable of making a useful abstract of the laws of other nations. Probably the best collection of this kind is that of the "Société de Legislation Comparee" of Paris; and yet it is impossible for any New York lawyer to read over the abstract made of the laws of the state of New York for any one year without being struck by the fact that much of the most important legislation of the year is not referred to, whereas

importance is often given to laws of comparatively little significance.

II. AS REGARDS UTILIZATION OF MATERIAL.

It cannot be said that the labor of any such society as that of the "Société de Legislation Comparee" has as yet been very fruitful in its results. Notwithstanding the carefulness with which every change made in the law and procedure in England is noted in the annual collection of this society, the points in which French procedure is most defective, as, for example, in its failure to provide for Injunction, Contempt of Court and Habeas Corpus, have received no attention at the hands of the legislature; and, on the other hand, the points in which English procedure might learn much from the simplicity of that prevailing in France have received similar inattention at the hands of the British Parliament. Again, the cumbrous procedure which prevails in the state of New York and in many of our other states, the uselessness of which cannot be appreciated by a American lawyer by anything less than actual practice in such a tribunal as that of the French Tribunal of Commerce where there is practically no procedure at all, has remained unsimplified by any lesson to be drawn from French procedure. Indeed, it may be said that unless there is some important interest engaged in pushing legislation, as in the case of the enactment of the Employer's Liability Act in France, which undoubtedly borrowed some provisions from the English act, the legislature of no one nation seems to learn much from the experience of its neighbors.

A question arises whether any plan can be proposed which will diminish the two difficulties above mentioned, and whether the present Congress is a fitting opportunity for the submission of such a plan.

PROPOSITION AS REGARDS COLLECTION OF MATERIAL.

There is in almost every civilized country in the world and in almost every state of the Union, either a law university, a

Bar Association, or an organization of some character which would willingly engage to draw up an annual abstract of the most important legislation of the year with a brief explanation of the conditions which made such legislation necessary. It is suggested that in lieu of the annual publications made now by numerous associations similar to that of the "Société de Legislation Comparee" which, for the reason above stated, must be deficient in matter and in form, a single publication be substituted, to which all the bodies above mentioned should contribute; the "Société de Legislation Comparee" in France contributing the legislation of France; the Society of Comparative Legislation in England contributing an abstract of the legislation of Parliament, and possibly that of its important colonies; the Columbian University contributing that of the United States Congress; the various universities and Bar Associations of the various states contributing that of their respective states. The result of such a plan would be that the number of such publications would be reduced to one; and instead of having many publications containing defective material, we should have one publication, containing material of value and accuracy.

PROPOSITION AS REGARDS UTILIZATION OF MATERIAL WHEN COLLECTED.

The collection of material as aforesaid would be of undoubted value to students. It is questionable however whether it would have much bearing upon legislation unless there was an organized bureau for utilizing the material so collected, with a view to legislation; in other words, the work of utilizing material must be centralized, as well as that of collecting it.

Moreover, such a central bureau must be more than a purely voluntary organization; it ought to have sanction from the countries whose legislatures are desirous of improving, and, to the utmost extent possible, unifying the law. The organization of such a central bureau is by no means a difficult task;

indeed, such a bureau is already in existence at Berne for the purpose of generally carrying into effect the international convention of the 20th of March, 1883, for the protection of industrial property. It is submitted, that the organization of such a bureau for the collection of annual legislation all over the world, for the codification of such parts of the law as lend themselves to such codification, and the recommendations of such codes to the legislatures of the various countries of the world, might lead to useful results. In support of this suggestion, the following considerations are submitted.

1°. Such an annual publication as is proposed would be of value, not only to all our universities, but also to all our legislatures; and it seems only fair that the legislatures which are to profit by such a collection ought to contribute to the expense of editing it.

2°. Differences exist between the laws of all nations on such subjects as that of negotiable paper; those differences, though trivial in themselves, lead to conflict of law and useless and expensive litigation. There is nevertheless no reason why the law on this subject of all the civilized countries in the world should not be indentically the same, and thus eliminate one cause at least of commercial irritation. Doubtless there are many subjects, such as marriage, which are too intimately associated with social conditions to permit of unification; but there are many other subjects besides negotiable paper to the unification of legislation concerning which no reasonable objection can be urged. The unification of the law of Bills of Exchange is first proposed because it is the one which could most easily be accomplished. Once a law was adopted by the principal nations of the world upon any one subject, it is likely that the convenience attending such unification of a law would inspire other efforts in the same direction.

3°. Obviously, such a bureau could not come into existence without an international congress, attended by delegates especially instructed by their respective Governments.

4°. A Central Bureau organized by the principal nations of the world would readily command the services of the experts best fitted to undertake so important a work.

5°. A Central Bureau so organized, with the assistance of such experts, would exercise an authority with the respective legislatures that no mere voluntary organization could attain.

CONCLUSION.

It is proposed, therefore, to submit to the present Congress a proposition that an invitation be extended to all the nations of the world to hold a congress in Paris during the year 1901, with a view to creating a bureau upon the lines hereinbefore set forth; and it is respectfully submitted that such a proposition would come with all the more weight, if the State Department were to express some approval of the plan. Obviously, such approval could only be given with the greatest reserve; however great the reserve made, some expression of approval is earnestly solicited.

EDMOND KELLY.

Paris, June 28, 1900."

To the letter from the Honorable, The Secretary of State, your President made the following reply:

OMAHA, NEB., July 23rd, 1900.

Hon. John Hay, Secretary of State, Washington, D. C.

SIR:—I am in receipt of your favor of the 21st inst., transmitting a dispatch from the Honorable Horace Porter, United States Ambassador at Paris, submitting a memorandum prepared by Mr. Edmond Kelly, a delegate from the United States to the International Congress of Law, now sitting at Paris, in which he sets forth considerations regarding the creation of an International Bureau for the collection and utilization of the world's legislation, looking ultimately to the unification of certain commercial laws.

The American Bar Association has for its object the advancement of the science of jurisprudence and the promotion of the administration of justice and uniformity of legislation throughout the United States. As an aid to such uniformity of legislation it is made the duty of the President of the Association to open each annual meeting with an address in which he shall communicate the most noteworthy changes in statute law, on points of general interest, made in the several states and by Congress during the preceding year. To give you some general idea of the method usually pursued, I send you herewith the address of the Acting President of the Association delivered at Buffalo, New York, in August, 1899. Commencing on page 20 of the pamphlet will be found reference to the legislation of the Congress of the United States and of the states and territories; and commencing on page 38 and running to page 107 will be found a brief synopsis of such legislation. This is necessarily incomplete because time and opportunity will not permit more extended review of the legislation in the Annual Address.

Since the year 1890, the University of the State of New York has published annually a digest of the enormous annual output of legislation of the various states comprising the United States of America. The work is one of great magnitude and of paramount importance. It is well said by the Director who prepares these compilations that "in this highly competitive age improved methods must be quickly adopted in government as well as in industries to keep in the lead," and that "states which do not study their neighbors' methods of government are as sure to lag behind as is the manufacturer who does not study his competitors' methods of production."

The American Bar Association during the 22 years of its existence has done much to bring about uniformity in legislation among the several states. There is, however, much yet to be accomplished and its committees are arduously at work in their endeavor to bring about uniformity, especially in the lines of mercantile and commercial law.

You are correct, therefore, in your statement that the conception of the creation and object of the projected International Bureau is a development of the American idea. Undoubtedly the creation of an International Bureau, the duty of which would be to take the collection of the principal legislative acts of the world, study them comparatively and suggest to the nations a general improvement, leading to practical unification, would be desirable. The practical difficulties in the way are numerous and almost forbidding in their character. Mr. Kelly, in his memorandum, sets forth some of them, but there are no difficulties that can be suggested that cannot be overcome by correct methods. The method for the collection of the material and its after utilization by a central International Bureau might well be considered by a Congress of the Nations to be held at some convenient place in Europe. Certainly such action could not possibly result in harm and from it much good might result.

I heartily approve the suggestion of Mr. Edmond Kelly and hope the Department of State will lend its countenance to the project that the Congress of International Law shall extend to the nations of the world an invitation for a Congress to create the proposed Bureau.

At the meeting of the American Bar Association in August, 1900, to be held at Saratoga, I will bring this matter to the attention of the American Bar and it may be that the Association may have suggestions to make concerning it. If so, it will be my pleasure as well as my duty to communicate further with you.

Very truly yours,

CHARLES F. MANDERSON,
President of the American Bar Association."

I submit this correspondence to you, suggesting the reference of this important subject to the Committee on Jurisprudence and Law-Reform that it may after due deliberation report with recommendations to the Association.

The Constitution of the Association makes it my duty to "communicate the most noteworthy changes in statute law on points of general interest made in the several States and in Congress during the preceding year." I proceed to the performance of this arduous task, craving your patient attention.

THE CONGRESS OF THE UNITED STATES.

It is doubtful if any Congress has had to deal with problems more difficult and legislation more important in its results than the first session of the 56th, which began on December 4th, 1899, and adjourned on June 7th, 1900. The law making mania is in evidence from the fact that in the Senate there were introduced 4,961 bills, and in the House 12,220. Of these there were enacted 197 public and 729 private laws. Many of the bills bearing upon subjects of grave import are in the hands of the committees, or upon the over-burdened calendars of the two houses, and will receive consideration at the next session.

The legislation accomplished has reached into the very heart of the difficult questions presented, and many of the unusual responsibilities that devolved upon the Federal legislature have been met with fearlessness and with a wisdom that time will prove. Hawaii had come to us by voluntary action and the laws essential for her annexation and government were pressing. Alaska, with a greatly increased population, excited and feverish in their pursuit of the precious metals on the coast line and on the Yukon, was, as she has been for many years, practically without law. The transition from disorder under Spain to order under the United States had to be accomplished in Porto Rico, and her relative status determined. The condition of affairs in the distant Philippines was disturbing and the Army and Navy needed the legislation that would permit efficiency. Our guardianship over Cuba brought up much to disturb. A fixed standard of value was needed to bring about stability in business. Active industry in all the trades was demanding a larger volume of

the circulating medium. Valuable treaties with other powers were pending for the consideration of the Senate.

I refer to the laws that seem to be of general interest, congratulating myself and you that the number is not greater, for as has been well stated by the accomplished President pro tempore of the Senate, the Honorable Senator from Maine, "It is no small part of the duty of Congressional leaders to contrive how not to legislate; to prevent great numbers of ill-considered, selfishly promoted and vicious measures from becoming laws."

AGRICULTURE.—Four hundred acres of the Arlington Estate are set aside as a general experimental farm, where agriculture, animal industry and horticulture may be fostered, under the direction of the Secretary of Agriculture.

Publications issued by Agricultural Departments of the states are admitted to the mails as second-class matter.

ALASKA.

A very voluminous act has passed organizing a complete civil government for this District. The territory ceded by Russia under the treaty of 1867 shall constitute a civil and judicial district, with the seat of government changed from Sitka to Juneau.

A civil code regulating the domestic relations, estates in land, in dower, by the curtesy, conveyances, wills, descent, the law merchant, municipal, public and private corporations, eminent domain, liens, mortgages, insurance, etc.; and a civil code of procedure, covering actions of every kind in the courts, form parts of the act, and with the criminal code heretofore framed, form a complete body of laws for the district.

The Executive and Judicial Departments are fully organized, but the legislative power is retained by the Congress. The President appoints a Governor, a Surveyor-General, who is ex-officio Secretary of the District, three District Judges, three District Attorneys and three Marshalls. The duties of these

officials are clearly defined in the law. These are all salaried officers and fees collected by them are to be turned into the Treasury. Licenses for carrying on every conceivable business are to be issued by the District Courts and the license tax varies from taxidermists at ten dollars and peddlers twenty-five, to breweries five hundred, pawnbrokers three hundred dollars and railroads one hundred dollars per mile per annum.

The Secretary of the Interior is to make all needful rules and regulations for the education of children, without reference to race.

The federal laws relating to mining claims is extended over the district and exploration and mining for precious metals may be had by citizens of the United States on land and shoal water, between low and mean high tide, and citizens may dredge and mine in waters below low tide under rules and regulations prescribed by the Secretary of War.

This legislation is of great importance as showing the probable course that will be pursued by the Congress concerning other possessions that may have come to us either by purchase or conquest. The act certainly throws every safeguard about the lives and liberties of the inhabitants of the district and permits the "pursuit of happiness" under conditions more desirable in some respects than obtain in some of the sovereign states of the Republic.

APPEALS.—The amendments to sections 6 and 7 of the Act of March 3rd, 1891, so frequently urged by our Association, to confer upon Courts of Appeal "appellate jurisdiction to hear and determine an appeal, or writ of error, from interlocutory orders, and decrees, appointing or refusing to appoint receivers, or vacating or refusing to vacate such an order or decree, or allowing or refusing to allow injunctions, notwithstanding an appeal in such cases upon final decree would, under the statutes, regulating such cases, go direct to the Supreme Court of the United States," and further to "provide an appeal not only where an injunction has been granted or continued but also where it has been refused or dissolved

and also where an application for the appointment of a receiver, or for the vacation of such appointment, shall be either granted or refused " have not yet been adopted by the Federal legislature.

An amendment has been made however to the seventh section of the Act of March 3rd, 1891, by which an appeal may be taken upon a hearing in a district or circuit court, or by a judge thereof in vacation, where an injunction shall be granted or continued, or a receiver appointed, by an interlocutory order or decree, in a cause in which an appeal from a final decree may be taken ; the appeal from the interlocutory order to be taken within thirty days.

ARMY —The number of cadets at the Military Academy has been increased, permitting a greater output to that great school.

BILL OF EXCEPTIONS may be allowed when trial judge, by reason of death, sickness or other disability, is unable to settle the same, by his successor in office or by any other judge of the court in which the cause was tried when, upon satisfactory evidence, he is satisfied that he can pass upon the same.

COURTS.—New divisions of judicial districts have been made in the eastern and western districts of Tennessee, northern district of Georgia, northern district of Texas, northern and southern districts of California and the southern district of Iowa.

The State of New York is re-divided into four new districts and a District Judge was appointed for the newly-constituted western district.

Terms of court, as to time and place, are provided for in the western district of Virginia, in South Carolina, Texas, western district of Louisiana, southern district of Florida, western district of Wisconsin, eastern district of North Carolina, and in the Indian Territory.

CRIMES.—An important extradition act, growing out of our peculiar relations with Cuba and the commission of grave offences there by those entrusted by the United States with

important duties, is that passed on June 6th, which provides that whenever any foreign country or territory is occupied by or is under the control of the United States, any person who shall violate the criminal laws in force therein, and has fled from justice to this country, shall be liable to arrest and detention by the authorities of the United States and on request of the military governor, or other chief executive officer in control of such foreign country, shall be surrendered for trial under the laws in force where the offence was committed. The proceeding prior to extradition must be had before a United States judge and probable cause of guilt must be established.

No person charged with political offenses shall be returned.

CUBA.

Vessels owned by Cubans are entitled in United States ports to the rights and privileges of the most favored nations.

DISTRICT OF COLUMBIA.

A Board of Charities of five persons is created to exercise supervision of all charitable and correctional institutions which are supported in whole or in part by congressional appropriation. They shall report to Congress through the District Commissioners.

GAME.—The Department of Agriculture is empowered to look after the preservation, distribution, introduction and restoration of game and other wild birds. No foreign wild animal or bird shall be imported, except under special permit from the Secretary, but natural history specimens for museums and certain cage birds may be brought in. The importation of the mongoose, flying foxes or fruit bats, English sparrows, the starling and like creatures, is prohibited and when brought to port shall be destroyed or returned. The interstate transportation of animals or birds, whose importation is prohibited, or which have been killed in violation of the game laws of any state or territory, is made unlawful with

heavy penalties for violation upon the shipper, the carrier and the consignee.

HAWAII.

The government of this territory is provided for. All persons who were citizens of Hawaii August 12th, 1898, are declared to be citizens of the United States.

The constitution, except as in the act otherwise provided, and the laws of the United States not locally inapplicable, shall have force and effect in the Territory. The constitution of the Republic of Hawaii and its laws, which are not in conflict with the constitution and laws of the United States, shall continue in force, except a large number which are repealed and those remaining are subject to repeal by the legislature of Hawaii or the Congress. General elections, beginning in 1900, are provided for, also the election, qualifications, powers and duties of members of the Legislature. The Senate shall be composed of fifteen and the House of thirty members. The executive power is lodged in a Governor, a Secretary, both to be appointed by the President, and the following officials to be appointed by the Governor, by and with the consent of the Senate of Hawaii;—An Attorney-General, Treasurer, Commissioner of Public Lands, Commissioner of Agriculture and Forestry, Superintendent of Public Works, Superintendent of Public Instruction, Auditor and Deputy, Surveyor, High Sheriff and members of the Boards of Health, Public Instruction, Prison Inspectors, etc. The duties of these officials are defined in the act.

The judiciary of the Territory is composed of the Supreme Court with three judges, the Circuit Court and such inferior courts as the legislature may establish. The judges are appointed by the President. The Territory is made a Federal Judicial District with a District Judge, District Attorney and Marshall, all appointed by the President. The District Judge shall have all the powers of a Circuit Judge.

The election of a Delegate in Congress is provided for and the Territory is made an Internal Revenue and Customs District.

MONEY.—An Act was passed March 14, 1900, to define and fix the standard of value, to maintain the parity of all forms of money issued or coined by the United States and to refund the public debt.

The dollar, consisting of twenty-five and eight-tenths grains of gold nine-tenths fine, shall be the standard of value and all forms of money issued or coined shall be maintained at a parity of value with this gold standard. The United States notes and Treasury notes shall be redeemed in gold coin and a redemption fund of one hundred and fifty millions of gold coin and bullion is set aside for that purpose only.

The methods by which the Secretary of the Treasury shall maintain this redemption fund intact are provided for. The legal tender quality of the silver dollar and other money coined or issued by the United States is not affected by the act.

The deposit of gold coin with the Treasurer and the issue of gold certificates therefor and the coinage of silver bullion into subsidiary silver coin is provided.

The National Bank law is amended to permit banks to be created with twenty-five thousand dollars capital in places whose population does not exceed three thousand. Provision is made for the refunding of outstanding bonds at a low rate of interest and under it bonds bearing 3, 4, and 5 per cent. interest have been refunded for bonds bearing 2 per cent., which it is stated is the lowest rate of interest at which the bonds of any government have ever been placed. I am informed by the Secretary of the Treasury that from March 14th to August 1st, 1900, there have been surrendered for 2 per cent. bonds the enormous sum of \$320,979,600, with a net saving to the government, by reason of the refunding, of \$8,159,161.

A tub is thrown to the bi-metallic whale by the following :

“That the provisions of this act are not intended to preclude the accomplishment of international bi-metalism whenever conditions shall make it expedient and practicable to secure the same by concurrent action of the leading commercial nations of the world and at a ratio which shall insure permanence of relative value between gold and silver.”

This sop to the Cerberus that sits at the gate that leads to the free and unlimited coinage of silver at the ratio of sixteen to one, without the consent of any nation on earth, seems to have changed the paramount place of political issues.

NAVY appropriations are very large, showing some of the results of the Republic becoming a “World Power.”

Two battleships with the heaviest armor and most powerful ordnance; three armored cruisers, to be the best of their class and capable of the highest possible speed; five submarine torpedo boats of the Holland type, and the highest class of ordnance for all, are to be constructed. If armor plate cannot be procured for a price that the Secretary of the Navy considers reasonable, the Government is to erect its own factory for its manufacture.

The Frigate Constitution is to recall the glories of the old Navy by being restored to the same condition as to hull and rigging as she was when in active service, the Massachusetts Society of the Daughters of 1812 to pay the cost.

PENSIONS.—All soldiers of the Mexican War, who are wholly disabled for manual labor and are in destitute circumstances have their pensions raised from eight to twelve dollars a month.

The disability pension law is amended to provide that disabilities in the aggregate of claimant may be considered in ascertaining the amount of the pension, and the provisions of the act are limited to widows who married prior to June 27th, 1890, and whose income does not exceed two hundred and fifty dollars a year.

PORTO RICO.

Another of the possessions that came to us as the result of our war with Spain has been provided with a government.

All inhabitants who were Spanish subjects on April 11th, 1899, and their children born since are citizens of Porto Rico, except those who elected to preserve their allegiance to Spain prior to April 11th, 1900. All laws of the country not in conflict with those of the United States shall continue in force until altered or modified by the legislative authority provided for in the act.

The Governor is appointed by the President and has the powers usually given to a Territorial Governor. There is also appointed a Secretary, Attorney-General, Treasurer, Auditor, Commissioner of the Interior and of Education. These, with five other persons, native inhabitants of Porto Rico, constitute an Executive Council having legislative powers, forming one of the two houses that constitute the legislative assembly. The other branch called the House of Delegates is composed of thirty-five members, elected in seven districts, there being five from each district. The act provides for the election of these delegates, every citizen of Porto Rico who was a bona fide resident thereof for one year being entitled to a vote.

The Governor has the veto power, but the assembly may pass a bill over his veto by a two-thirds vote. The same power to annul laws that obtains as to all the territories of the United States is retained by Congress.

The judicial power is vested in the courts and tribunals already established. The Justices of the Supreme Court of the Territory and the Marshal thereof shall be appointed by the President and the judges of the District Court by the Governor, with the advice and consent of the Executive Council, and the Legislative Assembly has full power in respect to the jurisdiction of said courts. The Federal Judicial District of Porto Rico is established. The President appoints the Judge, District Attorney and Marshal and the Judge has the powers usually exercised by the District and

Circuit Judges of the United States. Writs of error and appeals are provided to the Supreme Court of the United States both from the Supreme Court of Porto Rico and the Federal District Court.

The voters are to choose every two years a resident commissioner to the United States who shall be entitled to official recognition by all departments and shall be paid by the United States five thousand dollars per annum. He must be a bona fide citizen of Porto Rico, thirty years old and able to read and write English. A commission of three members is to be appointed by the President to complete and revise the laws of Porto Rico and to report advisable legislation.

There are no export duties, and taxes, licenses, fees and assessments may be provided by the Assembly. Bonded indebtedness is permitted, not to exceed seven per cent. of the tax valuation of property.

Imports into Porto Rico, shall pay the same duties, from ports other than those of the United States, which are required by law to be collected upon articles, imported into the United States from foreign countries. On coffee imported there is a duty of five cents a pound. Spanish scientific, literary and artistic works and English books, imported from the United States, are admitted free of duty. Merchandise coming into the United States from Porto Rico and coming into Porto Rico from the United States shall pay fifteen per cent. of the duties imposed upon like merchandise imported from foreign countries. Whenever the Legislative Assembly of Porto Rico shall put into operation a system of local taxation to pay the expenses of its government all tariff duties on merchandise passing between the two countries shall cease and all articles shall be entered at the several ports free of duty and in no event shall any duties be collected after March 1st, 1902. All duties and taxes collected in Porto Rico, less the cost of their collection, and the gross amount of all duties and taxes in the United States on articles coming from Porto Rico, shall be expended for the government and benefit of Porto Rico and paid into its treasury.

Thus it will be seen that this government derives no fund whatever from these imports during the time they are collected and the whole amount is used for the benefit of the local government. In addition to this the sum of \$2,095,455.88, being the amount of customs revenue collected by the United States on importations from Porto Rico since its evacuation by the Spanish forces, October 18th, 1898, to January 1st, 1900, and all sums collected since that date, were placed at the disposal of the President to be used in Porto Rico for the aid and relief of its people, for public education, public works and other governmental purposes.

PUBLIC LANDS.—Where an unmarried woman has settled on public lands under the homestead law and has married, or shall marry, she shall not on account of her marriage lose her right to entry and patent for the land, provided her husband is not claiming another tract of land under the homestead law.

Another act opens all agricultural public lands, whether acquired by treaty or agreement with Indian tribes, to settlement and confirms the title of those who have settled thereon in good faith.

Heretofore settlers on lands acquired from Indians paid the price that the government had agreed to pay the Indians. Now they will acquire title under the homestead act simply by paying office fees. It is estimated that this will open twenty-nine million acres of land partially arid.

RED CROSS.—The American National Red Cross Society is incorporated.

TREATIES.—The following Conventions have ripened into treaties by the ratification of the Senate:

Between the United States, Germany, and Great Britain, to adjust amicably the questions between the three Governments in respect to the Samoan group of Islands. It annuls all former tripartite treaties in regard to Samoa. The United States obtains Tutuila, a fertile island with about four thousand people, having the splendid harbor of Pago Pago, capable of affording safe anchorage for our Navy. The government has purchased

and is now building the needed wharves and docks to make a naval and coaling station.

Between the same powers a treaty has been made for the settlement of the claims of American citizens for losses alleged to have been sustained by reason of unwarranted military action, the King of Sweden and Norway being arbitrator.

Also a convention for the pacific settlement of international disputes and a declaration to prohibit, for the term of five years, the launching of projectiles and explosives from balloons and other new methods of destructive warfare of a similar nature, the same having been signed at the Conference at the Hague by the plenipotentiaries of the United States and other countries on July 29th, 1899.

Also a convention of powers, represented at the Hague Peace Conference, for the adaption to maritime warfare of the principles of the Geneva Convention of August 22nd, 1864.

Also treaties with Peru and with the Argentine Republic for the extradition of criminals.

LEGISLATION OF STATES.

The evil of over legislation, of the passion for law making, continues with unabated force, bringing in its train the ills of paternalism, dead letter statutes, with disregard and even contempt for law. Last year your President called attention to some of the absurd enactments, many of which "are more honored in the breach than in the observance," that fill space in session laws.

Luckily there are some constitutional limitations upon legislative power, and those who have framed organic acts have sought in some degree to check the avaricious appetites of the annual and biennial legislators.

That in the minds of the people there is a growing distrust of legislative bodies, and fear of the course of their leaders, is shown by the action of the later Constitutional Conventions in curtailing the length of sessions, the substitution of biennial for annual meetings, the prohibition of special laws, the for-

bidding of the grant of exclusive privileges to any corporation or association, the requirement that the subject of every act shall be clearly expressed in its title, that there shall be a separate act for each subject and that the several readings of bills shall be upon different days.

In the forty-five states and the three territories of Arizona, New Mexico, and Oklahoma, only eleven permit their legislative assemblies to sit without limit as to time. The remaining thirty-seven fix forty days as the shortest and ninety days as the longest period that the infliction may exist.

The following six states hold annual sessions, and four of these without time limit: Georgia, Massachusetts, New Jersey, New York, Rhode Island, and South Carolina. There is effort under way in several of these states to bring about biennial sessions. Of the remaining forty-two States and Territories seven hold biennial sessions in even numbered and thirty-five in odd numbered years.

Unhappy he, who in the preparation of the annual address finds the burden upon him to communicate to the Association "the most noteworthy changes in statute law on points of general interest" in the odd numbered years. On the last occasion it required the examination of forty-two volumes of session laws, many of them covering from 500 to 1,000 pages. The most voluminous sinner this year is the State of Maryland that issues, it is hoped to an admiring and grateful people, a book of 1372 pages, at the modest "price of \$5.40, express prepaid."

I comment to-day on the laws passed, within the year, by thirteen states that have held regular sessions, and the states of California, Michigan and Texas, whose legislatures have been in extra session under the call of their governors.

I will not weary you by reading all the report on the state enactments of 1900 and will simply call attention to some of the most notable. I hope, however, that when published they will command your attention and that some method may be devised to correct the evil of over-legislation and guard the

body politic from the mischiefs to be apprehended from indiscriminate, reckless, experimental and sometimes corrupt legislation.

The evil is a growing one and repeated warnings seem to have had but little effect. Nearly twenty years ago our honored President Phelps spoke, in emphatic tones, words that I must quote. He said, speaking of the material of which legislatures are composed and their capacity to regulate the delicate machinery by which the details of local government are carried on,—“We know that such bodies do not command public confidence; that their sessions are viewed with apprehension and their adjournments with a feeling of relief. Even in those legislatures whose integrity is unquestioned, the perusal of their labors is rarely calculated to inspire confidence in their wisdom. In the majority of them—happily not in all—the session laws exhibit hasty, inconsiderate, ill-advised legislation, framed to meet the real or supposed hardship of some particular case, to further some private end or to reflect some temporary gust of popular feeling; they are characterized by a tendency to extend legislation to all manner of subjects, as well without as within the domain of municipal law, making a new statute the remedy for all ills and all inconveniences; by a looseness and ambiguity of expression that leads to endless uncertainty and litigation and last and worst, by a fluctuation of purpose that deprives statute law of all stability and alters, amends, reconstructs and repeals its enactments from year to year more rapidly than the courts can grope their way to a construction of the language in which they are couched.”

A terrific charge, truly, but the Grand Jury of public opinion would declare it a true bill.

I commend to your careful thought the forcible address upon “The American Legislature” delivered by Honorable Moorfield Storey before our Association in 1894. It deserves a place in every Legislative Manual and if its suggestions were adopted there would be a new reign of law and increased respect for its rules.

A very able article appeared within the year in the *North American Review* from the pointed pen of Honorable David B. Hill, entitled "We are too much governed." It deserves your studious attention as a calm, dispassionate presentation of a great evil and affording wise suggestions of fair remedies, such as the creation of an intelligent public sentiment which shall insist that the volume of legislation shall be reduced within reasonable limits; that lobbyists, promoters, strikers and corruptionists shall be kept away from legislative halls; that general rather than special laws shall pass; that biennial sessions shall be substituted for annual ones; that constitutional amendments should be secured further restricting the power of legislation; to which might be added a fuller realization of the duties devolving upon the intelligent citizenship of the country, by which the best material in legislative districts shall be willing to make the personal sacrifice incident to the filling of minor positions in the public service.

Few realize that there were enacted in 1899, 4,834 general and 9,325 local, special, or private laws, making a total (hardly entitled to be called a grand total) of 14,159 laws in the states alone. The proportion is as large in 1900, the only relief being that fewer states held legislative sessions.

Governor Hill well says: "It is a serious mistake to teach the doctrine that the state must support its citizens, must provide them with work, must regulate what they shall eat, drink and wear, and otherwise control their customs, recreations and privileges through and by means of the authority of legislative enactments."

The evil is no new one. In days of old, Tacitus declared: "When the state is most corrupt, then the laws are most multiplied." "The tendency to deal with every evil that appears in society, by coercive legislation" says Lecky, that thoughtful philosopher, "weakens the robust, self-reliant, resourceful habits on which the happiness of society so largely depends and at the same time, by multiplying the functions and therefore increasing the expenses of government, throws new and

crushing burdens on struggling industry." Showing, in his excellent and late work "The Map of Life" how injudicious and improvident laws defeat the very purpose for which they are framed,—he says: "Measures guaranteeing men, and still more, women, from excessive labor, and surrounding them with costly sanitary precautions, may easily, if they are injudiciously framed, so handicap a sex or people in the competition of industry as to drive them out of great fields of industry, restrict their means of livelihood, lower their standard of wages and comfort, and thus seriously diminish the happiness of their lives."

Gentlemen of the American Bar Association, you can do much to bring about a better condition by vigorous effort, inculcating in the public mind the well recognized doctrine that "that government is best, which governs the least."

CALIFORNIA.

Extra session.—January 29th, 1900, to February 10th, 1900.

In extra session, called by the Governor, several amendments to the constitution of the state are proposed as follows:

AMENDMENTS TO CONSTITUTION.—1. Provides that any city of more than three thousand five hundred people may elect fifteen of its citizens as a Board, to prepare and submit to the electors a city charter. If a majority favor the charter, it is submitted to the legislature as a whole, to be approved or rejected, without power of amendment or alteration. If approved it becomes the organic law of the municipality, superseding any existing charter and all courts are required to take judicial notice thereof. At intervals of not less than ten years amendments may be submitted to the voters. If this amendment shall be adopted by the people it will inaugurate a most interesting effort at local self-government by municipalities.

2. Provides material changes of the Constitution as it relates to the judiciary. The Supreme Court is reduced from seven judges to five and is to be composed of one chief justice and four justices, who are to hold office for twelve years. All of

the sessions are to be held in San Francisco. The state is divided into three appellate districts, in each of which there is to be a Court of Appeals of three judges, elected for twelve years. Its judgments are final, except where the decision conflicts with a previous decision of the Supreme Court, or of another District Court of Appeals. In both the Supreme Court and the Court of Appeals oral argument must be made unless waived by the parties, with the consent of the court. Not more than twenty cases shall be under submission for decision at any one time. No judge shall receive any monthly salary unless he shall take and file an oath that no cause remains undecided in his court for more than ninety days.

The Supreme Court has appellate jurisdiction direct from the Superior Courts (one of which is to be established in each county with large jurisdiction) in proceedings where is drawn in question the validity of a statute, or of an authority exercised under the United States, or any statute claimed to be repugnant to the constitution or laws of the United States, or the constitutionality of any state statute, the legality of any tax or assessment, or questions of eminent domain or quo warranto, and in criminal cases, on decision of law alone, where the judgment is death or imprisonment for life, or questions involving the validity of city charters, or authority exercised thereunder.

HARBORS.—The State Board of Harbor Commissioners is granted increased jurisdiction and power, and the construction of docks and wharves is regulated.

HIGHWAYS.—The act regulating the width of wagon tires is repealed.

PUBLIC WORKS.—The office of Commissioner of Public Works is created. The Commissioner is to be appointed by the Governor.

SENATORS OF THE UNITED STATES.—Their election by direct vote of the people is favored by both houses.

TELEGRAPHIC cable across the Pacific Ocean is advocated by joint resolution.

GEORGIA.

Annual Session.—October 25th, 1899, to December 16th, 1899.

AMENDMENTS TO CONSTITUTION.—At the next general election the people will vote upon an amendment permitting pensions to be given to ex-Confederate soldiers who by reason of age and poverty, or infirmity and poverty, or blindness and poverty, are unable to provide a living for themselves.

CATTLE are to be protected from all contagious or infectious diseases, and the Commissioner of Agriculture may establish quarantine lines.

COURTS must grant supersedeas in all criminal cases when the defendant has filed motion for a new trial.

CRIMES.—Counterfeiting or forging cards, receipts, certificates, or letters given by any association of railway employes, or uttering the same, is made a misdemeanor.

The burning or attempt to burn a house in a city or town, or an occupied house on a farm, whether owned by the perpetrator or not, is punishable by imprisonment from five to twenty years, and if the arson shall produce the death or maiming of any person, the punishment shall be death.

Prosecutions for seduction may be stopped at any time before arraignment and pleading by the marriage of the parties, or a bona fide and continuing offer of marriage, provided bond is given for the support of the female and her child, and if the defendant cannot give bond, the prosecution shall not be at an end until he has lived with his wife for five years; and the wife is a competent witness against her husband as to the seduction.

DOGS are to be taxed and registered, and if not registered are to be killed.

GAME.—Turkeys, quail, doves, and deer shall not be trapped nor killed for sale, except on one's own land, without a license fee of twenty-five dollars.

GOLD.—Purchasers of gold in any form must keep a record of the purchase, file reports thereof with the Ordinary of the County who shall report to the State Geologist.

HEALTH.—A State Board of embalming is created who shall examine and license embalmers.

Private hospitals may be established for the treatment of victims of alcohol, morphine, cocaine, etc., and they may restrain inmates of their liberty.

LANDLORDS' LIEN for rent or for supplies is a special lien on the crops of the leased land superior to the claim of widow and children for a year's support.

LIENS of laborers and material men are confined in amount to the contract price of the improvement.

LIQUORS.—Places where liquor is sold in violation of law are said in the statute to be called "Blind Tigers," and the plant or animal so designated is declared a nuisance and may be abated and the stock-in-trade seized.

MANSLAUGHTER is defined to be killing as the result of sudden, violent impulse of passion, supposed to be irresistible, and the jury are the judges of the sufficiency of the time for the voice of reason and humanity to be heard.

MORTGAGE given to trustee to secure bonds may cover after-acquired property when so expressed.

Mortgage given on crops for supplies, money and other articles of necessity, including live stock, to aid in making and gathering such crop, shall be superior to judgment of older date.

NOTES for rent, mortgage notes and other such evidence of indebtedness, secured by contract lien or out of which a lien springs by operation of law, transferred for value carry with them, as a necessary incident, the lien and the right to foreclose the same.

OIL.—The Commissioner of Agriculture is to appoint an Inspector of Oils, who is to test all illuminating oils.

OYSTERS AND FISH can only be taken from public waters for sale upon payment of a county license fee of twenty-five dollars.

RAILROADS, public or private, may cross other roads when necessary to reach mineral, timber, or other material.

REAL ESTATE.—Owners thereof may create an estate therein by deed to a trustee who takes the title subject to the trust and shall have control of the property. The trust may be for the benefit of the owner and other beneficiaries and shall continue for twenty-five years, only, unless renewed.

The trustee may issue certificates of interest in the trust property which may be transferred as personal property. On death, removal, or resignation of the trustee, title passes to his successor.

SCHOOLS.—The law permitting graduates of schools, colleges, etc., to teach in the public schools without preliminary examination is repealed and they must now be examined like other applicants.

SLEEPING CAR COMPANIES may assign white and colored passengers to different compartments, and shall not permit the two colors to blend in one compartment.

They shall not be compelled to carry persons of color in sleeping or parlor cars and their conductors and employes and those of the train have police power to eject passengers refusing to take compartments to which they may be assigned.

TAXES.—Occupation tax not to be collected from ex-confederate soldiers who are in business as photographers, physicians or proprietors of parks or race tracks.

WAREHOUSES are authorized to store cotton, grain and other property. They shall give bond and may issue negotiable receipts.

IOWA.

Biennial session.—January 8th, 1900, to April 6th, 1900.

AMENDMENTS TO CONSTITUTION.—A proposed change in the constitution will be voted upon whereby general elections will be held biennially in even numbered years.

This will do away with separate elections for the judiciary.

ATTORNEYS.—Candidates for admission must study three years instead of two as heretofore. They must have a general

education equivalent to a high school course. The Attorney-General and four members of the Bar appointed by the Supreme Court are the Committee of Examination. Students of the Law Department of the State University must be examined by the Committee when recommended by the faculty.

Foreign attorneys must file with clerks of court the appointment of some resident attorney upon whom service may be had.

BANKS.—Savings banks may set aside a part of net earnings as a surplus fund, which is to increase the capital stock of the bank and cannot be used for expenses or dividends. They cannot receive deposits of more than ten times their capital and surplus.

BOXING CONTESTS and sparring exhibitions for admission fee, prize, or reward, are made misdemeanors.

BUILDING AND LOAN ASSOCIATIONS are prohibited from issuing guaranty stock, fully paid, or single-payment stock, or any other which is to receive fixed dividends, or is not subject to all the liabilities of all other stock; except that they may issue fully paid stock, when par value is paid therefor; but the dividends shall not exceed eight per cent. per annum, which said stock shall be called in and redeemed by the association upon thirty days' notice. Such stock shall not be entitled to a vote. The expenses of such associations are regulated by their assets. Non-borrowing members may withdraw upon affirmative vote of three-fourths of the Board of Directors. Provision is made for liquidation and consolidation with other like concerns and for revocation of charter for failure to comply with the law.

COMMON CARRIERS of passengers are required to redeem the whole or any portion of unused tickets and time of such redemption is fixed. Notice of such redemption shall be posted wherever tickets are sold, under penalty for failure.

CORPORATIONS for constructing works of internal improvement and for life insurance, to renew their charters, must pay a fee of twenty-five dollars and one dollar for each one

thousand dollars of capital in excess of ten thousand dollars, but not exceeding a fee of two thousand dollars.

RAILROAD COMPANIES and other quasi public corporations organized prior to 1897 are relieved from endorsing on the face of stock certificates the proportion of capital stock paid in and manner of payment.

ELECTIONS. — Voting machines approved by a board appointed by the Governor, may be used. They must permit a secret ballot and also a choice of at least seven candidates for same office and permit a vote for a person not a candidate of any party.

There is much legislation of detail covering the use of such machines.

FLAG.—It is made a misdemeanor to publicly mutilate, insult or trample upon the flag of the United States.

GAME.—Non-residents may hunt game birds and animals only on payment of a license fee of ten dollars per annum in each county in which they may hunt; and the fund is to be used for prosecuting violators of the game law.

INSURANCE COMPANIES may organize to insure against robbery, burglary, and loss of money in transportation; also against accidents. Refusal of an insured party to submit to arbitration shall not relieve the company from payment of loss.

COMPANIES organized on the "stipulated premium plan" are fully regulated as to organization and conduct of business. Life insurance companies may loan upon their policies at any time after issue, to an amount not exceeding the net terminal reserve.

LIBRARIES may be established in each school district by the Treasurer withholding from the money appropriated not less than five, nor more than fifteen cents for each person of school age.

A State Library Commission is created of certain state officials and four other persons, two being females, to give advice and counsel to all public library boards.

MINES —Mining foremen, pit bosses and hoisting engineers of coal mines whose daily capacity exceeds twenty-five tons, must be examined and licensed by the State Board.

PENITENTIARY.—The making of pearl buttons and butter tubs is prohibited.

RAILROADS are authorized to condemn additional ground for the purpose of double-tracking their line, straightening curves, changing grades, shortening or re-locating portions of their line and for excavations, embankments, or for places for depositing waste earth.

TRAIN ROBBERY is made a distinct offense punishable by imprisonment of not less than ten years.

REFORMATORY is established for females.

SOLDIERS' HOMES.—Inmates shall not be deprived of their pensions unless twice found guilty of drunkenness and then one-half shall go to their families. If they have no families then the whole pension shall be held upon two convictions of drunkenness.

SUGAR manufacture is encouraged by exempting the property and capital invested from taxation until January, 1910.

TAXATION.—Laws dealing with the taxation of telegraph, telephone, express, and insurance companies and with collateral inheritances have been passed.

VETERINARY SURGEONS are to be examined and licensed by a board appointed by the governor.

KENTUCKY.

Biennial Session.—January 6th, 1900, to March 14th, 1900.

The last General Assembly of the Commonwealth of Kentucky was more prolific in that which was sensational than in that which was legislative, and for a time the reign of the rifle was more in evidence than the reign of law. The legislative and the executive branches of the state government were in a condition of demoralization difficult to depict, and it became the province of the highest Federal tribunal to bring some

degree of order out of the chaotic state that bid fair to wreck the local government.

The prime cause of the difficulty is not far to seek. Two years ago an act known as the Goebel law was passed, which was evidently intended to serve personal and party ends, without reference to the wish of voters as expressed at the polls, and was certainly a most pernicious and evil measure. It seemed to be framed on the idea, "let who will cast the votes so that I may do the counting."

The law put the entire machinery of elections in the hands of three commissioners, chosen by the Legislature. Naturally they would be of the same political faith as the majority of the General Assembly. These commissioners were to appoint all County Election Boards, who in turn appoint all local and precinct officers. Thus the party, or man, who could manipulate the choice of the commissioners could largely control the result, unless there came a revolt in the ranks of the dominant party.

Another law, of most objectionable character, when partisan influence controls its enforcement, led to the conflict that culminated in the tragedy, that, the General Assembly of the state truthfully declared, brought the "fair name of the Commonwealth of Kentucky into disrepute throughout the Nation." It provided that in contested elections of a Governor and Lieutenant-Governor, a board of eleven should be selected, by lot, from among the members of the legislature. This board was to take evidence, hear the contest and render judgment. The decision of the board was not final nor conclusive, but was reported to the General Assembly, which then determined the contest. Thus it will be seen that a major part of the same power that took upon itself the management of all the election machinery, became, without limit upon its discretion or final judgment, the tribunal that decided who should hold the chief executive offices of the state.

In 1899 the candidates of the Republican and Democratic parties for Governor were W. S. Taylor and William E.

Goebel. A split in the Democratic ranks, attributable largely to the opposition to the so-called Goebel law, led to Republican success at the polls, and Taylor was declared elected by the State Board of Commissioners finding he had a plurality of several thousand votes, and thereupon he took his seat.

The Legislature met; Mr. Goebel occupying a seat as Senator, and claiming to have been elected Governor. His contest was entertained and the board selected to take the evidence. The manner of their selection, which was to have been by lot, is matter for discussion. Mr. Justice Brewer in his opinion dissenting from the reasoning but concurring in the result in the case in the Supreme Court, which finally decided in favor of the Democratic contention, says of it: "I do not ignore the many allegations of wrong, such as that the selection of the committee was not by lot, as prescribed by the laws, but was a trick on the part of the clerks of the Assembly, and it must be conceded that the outcome of that drawing lends support to this allegation. Curious results sometimes happen by chance; but when these results happen so largely along the lines of the purpose of those who have control of the supposed chance, it is not strange that outsiders are apt to feel that purpose and not chance determined the result."

The board selected by the Legislature decided in favor of Goebel, and the General Assembly, as Mr. Justice Harlan says, "without a line or word of the evidence transmitted to it," and upon a "report not accompanied by any abstract of the evidence, or any recital of the grounds upon which it based its conclusion and upon a report giving no basis, not the slightest, upon which the legislature could determine the correctness of its statement," approved the report and declared Mr. Goebel to have been legally elected.

I need not take your time to narrate at length the events that occurred pending this contest. The capital of the state became an armed camp. Taylor declared the legislature adjourned and called upon it to meet again in the remote mountain town of London. The militia broke up all attempted

meetings, but finally a majority met and signed an endorsement in favor of Goebel, who meantime had been cruelly, and in a most dastardly fashion, shot by an assassin. Of this wound he died, but not until he had taken the oath of governor.

Mr. J. C. W. Beckham, who had been the Democratic candidate for Lieutenant-Governor, assumed to be governor and the conflict came between him and Taylor. The warfare of armed retainers, so disgraceful to all concerned, gave way to methods more sane and the final decision of the Supreme Court of the United States settled the controversy in favor of Beckham, who is now the Governor of Kentucky *de jure* and *de facto*; and it is hoped that the Commonwealth is through with what has well been called "its paroxysmal politics and homicidal proclivities."

This decision of the Supreme Court and the opinions filed by Justices Harlan and Brewer are most interesting. The majority of the court hold that an office is not property within the meaning of the 14th amendment and that seems now to be the settled rule of our highest tribunal. Mr. Justice Brewer dissents on this point, saying, "I am clear, as a matter of principle, that an office to which a salary is attached is, as between two contestants for such office, to be considered as property. Mr. Justice Brown concurs in this view. Mr. Justice Harlan holds the same dissenting view and says, commenting upon the conclusion reached by the court, "So that, while we may inquire whether a citizen's land, worth one hundred dollars, or his mules, have been taken from him by the legislative or judicial authorities of his State, without due process of law, we may not inquire whether the legislative or judicial authorities of a state have, without due process of law, ousted one lawfully elected and holding the office of Governor for a fixed term, with a salary payable at stated times, and put in his place one whom the people had said should not exercise the authority appertaining to that high position."

The court declines to take jurisdiction on the ground of no deprivation of rights embraced by the 14th amendment, with-

out due process of law ; and also on the further ground that there was no violation of the guarantee of a republican form of government and held that the action of the Legislature was final and conclusive and could not be overturned by the courts. Mr. Justice Harlan dissents from this view also, using the following forcible language : “ Looking into the record before us, I find such action taken by the body, claiming to be organized as the lawful legislature of Kentucky, as was discreditable in the last degree and unworthy of the free people whom it professed to represent.” “ No such farce under the guise of formal proceedings was ever enacted in the presence of a free people, who take pride in the fact that our American governments are governments of laws and not of men.” “ Those who composed that body seemed to have shut their eyes against the proof taken in the case, and were willing to act without proof, for fear that it would compel them to respect the popular will as expressed at the polls. Indignant, as they naturally were and should have been, at the assassination of their leader, they proceeded, in defiance of all the forms of law, and in contempt of the principles upon which free governments rest, to avenge that terrible crime by committing another crime, namely, the destruction by arbitrary methods, of the right of the people to choose their chief magistrate.” “ I cannot believe that the judiciary is helpless in the presence of such a crime.”

The majority of the court, however, hold to the views expressed by the Chief Justice that “ in the eye of the constitution the legislative, executive and judicial departments of the state are peacefully operating by the orderly and settled methods prescribed by its fundamental law.” Further he says that “ any complaint that may have been well founded was the result of the constitution and law” of the state and the “ remedy is to be found in the august tribunal of the people, which is continually sitting and over whose judgments on the conduct of public functionaries the courts exercise no control.”

“ Quiet reigns in Warsaw.” Kentucky apparently is quiescent, but the seeds of trouble remain in her legislation,

ready to sprout and bring as the harvest more trouble and greater tragedies, unless the corrective is applied.

COMMISSIONERS.—One of the first acts passed was to appoint a Commission of five persons, to aid the commonwealth's attorney to apprehend and bring to justice the murderers of William E. Goebel. An appropriation of \$100,000.00 was made to pay the expense of the Commission and secure the assassins and convict them.

COMMON CARRIERS are prohibited from carrying persons free, either with or without tickets or passes, to any point in the State for the purpose of intimidating an officer in the discharge of his duties under heavy penalties.

CONVICTS.—A system of paroling penitentiary convicts not guilty of rape or incest is provided.

CORPORATIONS are prohibited from contributing in any form or manner to the campaign fund of any political party, or by promises or threats influencing the votes of employes, under heavy penalties and forfeiture of charter.

EMINENT DOMAIN may be exercised in favor of oil and gas pipe lines, which are declared to be a public use.

LIBRARIES that are free to the public may be maintained in Cities of the second class.

PENSIONS are provided for aged and disabled firemen, their widows and dependent children.

RAILROADS are prohibited from charging exorbitant rates and the Railroad Commissioner may fix just and reasonable rates.

TAXATION of shares in national banks is provided so that they may be placed upon the same plane for taxation as state banks, and certain state banks, declared by the decision of the United States Supreme Court to be exempt from local taxation, must file their written consent to pay local and state taxes or their charters are repealed.

LOUISIANA.

Extra Session in August, 1899.—Biennial Session, May 13th, to July 10th, 1900.

At the extra session the only matter of importance was the adoption of a water, sewerage and drainage system for New Orleans, ratifying the action of the City Council in submitting the question to a vote of property taxpayers, including both men and women. The tax had been voted and the act ratifies such action and submits the statute itself as an amendment of the state constitution of 1898, in such way as to sanctify, as far as possible, the issue of bonds to be made to pay for the work. Almost all of the employes upon the work are to be appointed under the provisions of the civil service feature of the city charter of 1896. In April, 1900, the act was ratified by the adoption of the constitutional amendment.

It is suggested that the last regular session of the legislature of this state was probably the first instance in the United States where all the members of the body belonged to the same political party; a condition certainly not productive of the best results.

AMENDMENT TO CONSTITUTION of the state was adopted at the regular session, to be voted upon, amending the provision pensioning ex-confederate soldiers.

Resolutions were adopted favoring a repeal of the 15th amendment of the constitution of the United States and the election of Senators by direct vote of the people.

AGRICULTURE.—Statistics of condition, probable and actual yield of products are to be collected and printed each year.

Factors, brokers, and commission men must report to their principals the names of persons to whom products are sold and full details of classification.

BANKS must set aside 10 per cent. of net profits as a reserve fund, until such amount equals 20 per cent. of the capital stock, and no dividend shall be paid except from excess of net profits over losses and such reserve.

CIVIL SERVICE.—A Board of Civil Service is to be appointed for New Orleans. It is to classify all officers that are appointive and appoint examiners. Women and minors may be examined and all examinations shall be public and free

to all voters who registered and voted at the preceding election. The general character of the examination is provided for. The Board is privileged to select for appointment any one of the grade or class who has a standing of seventy-five per cent. in a scale of one hundred. The criticism is made upon this law that it permits a partisan board and that such board can readily select its own friends from the large eligible list.

COURTS have jurisdiction over defendants, not residents, when the action arises from business transacted in the state, and the defendants may be served by citation in any other state or foreign country and judgment had against them.

DECEDENTS' estates of less value than \$500.00 can be administered upon with speed and economy.

DENTISTS can only practice after examination and license issued by the State Board of Dentistry to be appointed by the Governor.

ELECTIONS.—A law regulating primary elections has been enacted.

ELECTRICITY.—Taking current from wires is made a misdemeanor.

INSURANCE COMPANIES shall not make any compact to maintain rates, and the valued policy system is adopted for fire insurance.

LABOR.—Female employes in retail establishments must be furnished with seats and allowed thirty minutes for luncheon.

A Bureau of Labor Statistics is created, the Governor to appoint the salaried commissioner.

MARRIAGE is prohibited between uncle and niece, aunt and nephew, and first cousins.

TAX of \$5.00 on each \$1,000.00 of sales is imposed upon foreign corporations selling oil. A license tax on dealers in pistols and pistol cartridges is imposed.

TRADING STAMPS, used by merchants, are prohibited.

MARYLAND.

Biennial Session.—January 3rd, 1900, to April 2nd, 1900.

AMENDMENTS TO CONSTITUTION as follows are to be submitted to vote:

- 1st. Limiting the compensation to States Attorneys.
- 2nd. Establishing the basis of legislative representation.
- 3rd. Dividing Baltimore into legislative districts and fixing representation in state Senate.

ACCOUNTANTS are to be examined and licensed by a State Board.

ATTORNEYS.—Those receiving fees as attorneys not having been admitted are subject to fine. When attorneys are disbarred from any court they shall not practice in the Orphans' Court.

Attorneys must not solicit employment of persons confined in jail, and for doing so shall be suspended from practice.

A most important act regulates the practice of legislative attorneys and agents before the General Assembly, commonly called the Anti-Lobby act. Each attorney or agent employed to promote or oppose legislation shall register with the Secretary of State, giving the purpose of his employment and the party by whom employed. The employer is likewise required to register the names of his attorneys or agents and the subject of legislation to which the employment refers. It also requires the filing with the Secretary of State of an itemized statement of expenditures incurred in the promotion of or opposition to legislation. This act is in great measure modeled after a similar statute of Massachusetts, which is said to have worked well, with an additional provision giving the Governor power, in case he has reason to believe money has been improperly used in connection with any bill, to require a statement of expenditures in connection therewith, before approving such bill.

BICYCLES.—A Board of State Sidepath Commissioners is appointed who may appoint county boards and the user of

such paths must be licensed. Bicycles must carry bell and light and not be ridden on sidewalks, and shall not be subject to toll rate charges.

CHILDREN shall not be employed for acrobatic, or similar purposes, or as beggars or street musicians.

Juvenile institutions and societies are given the care and custody of abandoned or incorrigible children and may find them homes.

CORPORATIONS heretofore chartered, but not organized, must commence business within a time limit and pay an annual tax on their capital stock or their franchise becomes void.

CRIMES.—Appropriation to personal or unauthorized use of any trust money by executors and other trustees is made embezzlement.

It is a misdemeanor to shoot a fox while it is being chased by fox hunters.

The divulging of contents of telegrams and telephone messages, or refusal to send one, is made a misdemeanor.

Purchasing property from minors is regulated.

The winning of money at games rejoicing in the name of "thimbles," "little joker," or "craps," is made an offence punishable by fine and imprisonment.

FEED STUFFS, concentrated, must be analyzed, inspected and marked.

FRAUD is presumed, when entire stock, or portion thereof, is sold out of the usual order of business; and the detail of notice of such sales is provided for, to protect creditors.

The Statute of Frauds is modified so that the consideration for the promise to pay the debt of another need not be expressed in writing.

HEALTH.—Milk adulteration is punishable, and skimmed milk when sold must be so marked.

Oleomargarine receives additional adverse legislation and must be marked plainly as such in places where sold or served.

INSANE.—Important legislation has been had concerning their commitment.

INSURANCE must be made through resident agents.

JURIES.—Provision for special findings of fact has been repealed.

LABOR.—Employer must give employes time to vote.

MARRIED WOMEN may contract with husband or any other person for co-partnership in business.

MORTGAGE for purchase money has priority as against previous judgments or decrees.

Growing crops are exempt from mortgage.

POLICE of Baltimore are to be appointed by a Board of Police Examiners selected by the Governor, and are to be retained during good behavior and can only be removed upon written charges and after hearing.

RAILROADS may acquire the stocks and bonds of other roads.

ROADS shall not be opened so as to pass through the yards, gardens, buildings, or burial grounds of any person without his consent.

SCHOOL CHILDREN must be vaccinated.

SILVER that is entitled to be marked sterling is defined, and falsely stamping silver as sterling or coin silver is punishable.

TAXATION is exempted in certain counties for the encouragement of manufacturing establishments, and it is worthy of note that there is much special legislation concerning localities in the acts of the Maryland legislature.

USURY.—A stringent law concerning usury on loans, based upon chattel mortgage, has been enacted with severe penalties.

MASSACHUSETTS.

Annual Session, January 3rd, 1900, to July —, 1900.

BLIND ADULTS may be instructed at their homes at state expense.

CHILDREN.—The State Board of Charity is given increased power for the care and custody of neglected or abused children.

CIVIL SERVICE is applied to the police and fire departments of Milton and Natick.

CITIES may pension aged and disabled firemen.

COMMON CARRIERS shall not take from employes any bond to indemnify the carrier from loss or damage, caused by any act or neglect of such employe. This does not apply to bonds for accounting for money.

GAME.—Pheasants are protected for five years.

HEALTH.—The manufacture or sale of any fabric, paper, or article of dress, containing arsenic, is made a misdemeanor.

ICE.—It is made a misdemeanor for a dealer to refuse to sell ice in small quantities.

INSURANCE against theft and burglary is permitted.

LABOR LAWS have been enacted limiting hours of work and prohibiting contracts that employes shall lodge, board or trade at a particular place.

PENSIONS for age and length of service are to be paid Boston firemen.

RAILROADS must equip passenger cars with platform gates. Must run workingmen's trains in morning and evening in and out of Boston. Must transport bicycles as baggage.

SCHOOLS.—Street car companies must carry children to and from school at half fare.

A teacher's retirement fund is created in Boston.

STREET RAILWAYS are authorized to carry mail and baggage subject to the law of common carriers.

Where sold under receivership, the purchaser must incorporate with capital stock limited to the amount of the value of the plant, less mortgage, if any.

TAX.—The payment of inheritance tax is enforced under personal liability upon the executor and administrator of estate.

MICHIGAN.

Extra Session.—December 18th, 1899, to January 6th, 1900.

An extra session of the legislature was called by the Governor of the state, the declared purpose being to pass a general

tax law. The legislative body not being in accord with the executive, the proposed law failed of passage.

Acts were passed providing for the accounts of some of the public institutions and one supplementary to an Act for the relief of sick, needy and disabled soldiers of the Spanish-American War. In view of charges of fraud in the purchase of military supplies for the state by the Military Board, the Attorney General was authorized to investigate and bring legal proceedings to protect the interests of the state.

MISSISSIPPI.

Biennial Session.—January 2nd, 1900, to March 12th, 1900.

AMENDMENTS TO CONSTITUTION are to be submitted to vote of the people as follows:

1st. Schools shall be maintained by a poll tax to be retained in the county where collected.

2nd. The amendment heretofore voted upon making the judiciary elective is declared carried and ratified.

3rd. The amendment ceding levee management and control to the United States is declared carried.

CHANCELLORS' powers as to matters testamentary, property of minors and insane persons are enlarged.

CRIMES.—It is made a misdemeanor for laborers, renters, or share croppers, who have contracted for not exceeding a year, to make a new contract, without giving notice of the first one.

HEALTH.—Compulsory vaccination is provided for.

INSURANCE must be written through duly authorized and licensed resident agents.

LIQUORS, and the vessels and appliances used therewith, kept to be sold in violation of law, it is declared are not property and may be seized and destroyed.

PENSIONS are provided for ex-confederate soldiers who are disabled or indigent and have no property exceeding four hundred dollars in value.

SCHOOLS for teaching the manufacture of cotton fabrics are to be maintained by the state.

TAXATION.—All factories for working jute, ramie, wool, silk, furs or metals, or making machinery, wagons, shoes, barrels, boxes, and all creameries, being established or hereafter to be built, are exempt from taxation until January 1st, 1910.

TRUSTS AND COMBINES are defined and prohibited in the language usual to such enactments in other states. All contracts with them are void. Persons controlling them, or employed by them, shall be fined or imprisoned. Domestic corporations may not own stock in them and foreign corporations owning such stock shall be prohibited from doing business.

NEW JERSEY.

Annual Session.—January 9th, 1900, to March 23rd, 1900.

ATTORNEYS.—The lines have been drawn a little closer as to admission of candidates by repealing the law of 1882.

BATHERS at the sea side are to be protected, the keepers of all bathing establishments to provide life lines, life boats and bathing masters, who are expert swimmers.

CITIES.—Mayors thereof shall appoint Boards of Water Commissioners with extended powers and duties.

COMMERCIAL FEED STUFF that is concentrated can only be sold under the law similar to that passed in 1899 by many states regulating its inspection and punishing its adulteration.

CONDEMNATION of private property for public use is regulated by an elaborate law repealing all former statutes.

CORPORATIONS.—The law incorporating and regulating telegraph companies has been remodeled.

Another has passed providing for the dissolution of religious, charitable and educational societies.

Cumulative voting for directors, managers, etc., is permitted.

No corporation can be voluntarily dissolved until its taxes are paid.

A striking instance that the power to tax is the power to destroy is shown by the action of the Governor of New Jersey, by virtue of statutes of the state passed in 1896 providing that

when corporations neglected to pay state taxes for two years, their charters should be declared void and all powers thereunder inoperative. The Governor took such action by proclamation dated May 2nd, 1899, as to 656 corporations and on the 2nd day of May, 1900, as to 657 more, thus at two "fell swoopes" wiping out the life of over thirteen hundred corporate combinations, covering every conceivable branch of manufacture and commercial industry.

COURTS.—The original title of any cause removed from any court to another of appellate jurisdiction shall not be changed.

CRIMES.—Probation officers may be appointed by judges in each county to whose custody persons convicted may be given.

Juvenile offenders who are criminal or incorrigible are to be committed to public institutions, and their care and discipline there is well guarded by law.

Fraud in selling coal is specifically and severely punished and public scales are regulated.

HEALTH.—A very stringent law has been enacted regulating the transportation of dead human bodies.

Municipalities may grant franchises for the erection of crematories for the cremation of refuse garbage and waste matter and may establish hospitals for contagious diseases.

Strict quarantine provisions may be enforced against maritime vessels.

LIBRARIES.—A public library commission shall be appointed by the Governor to act as an advisory board for free libraries and through which donations may be made by the state.

PARKS.—An interstate park along the Hudson River at the Palisades is to be created, and the states of New Jersey and New York are to act in unison to that end.

RAILROADS may purchase other roads with which they connect.

REFERENDUM.—This principle is recognized in two enactments.

The act to reorganize boards of chosen freeholders is to be inoperative in any county until it has been submitted to the voters and approved by them. The act fixing the pay of the fire department in cities of the second class is to be voted upon and approved by the voters before taking effect.

SCHOOLS.—A vast amount of legislation has been had upon this subject, a complete system of public instruction being enacted. A State Board of Education of two from each Congressional District is created, also a District Board in each school district, also state, district and county Boards of Examiners, also Board of School Estimates and in each district a "Business Manager," who has charge of all buildings and property.

Women are allowed to vote at school elections, except for members of the Boards.

School children are from five to twenty years of age and may be transported at public expense to and from school when living at remote distances.

Compulsory attendance is required of children between five and twelve years of age, and no child under fifteen shall be employed to labor unless it has attended school the previous year for sixteen weeks. Truants, insubordinate and disorderly children, are provided for in parental schools, and Normal schools, manual training and industrial schools, for colored youths, are provided.

Salaries of teachers may be assessed when they desire to provide annuities for those incapacitated to teach after twenty years service.

There shall be a Medical Inspector to examine children at least once a year. The flag shall float over each school house and patriotic services be held the day before Washington's birthday, Lincoln's birthday, Memorial, Thanksgiving and Arbor Days. Teachers' salaries are arbitrarily fixed by law, proportionate to length of service.

SOLDIERS, SAILORS AND MARINES who have honorably served, holding any county office, other than constitutional or statutory, shall be retained in place.

TAXES promptly paid may be discounted.

Full provision has been made for the taxing of property and franchises of corporations.

NEW YORK.

Annual Session.—January 3rd, 1900, to April 6th, 1900.

AMENDMENT TO CONSTITUTION providing for seven additional Justices of the Supreme Court is to be voted upon.

CANAL is proposed to be enlarged in compliance with Commissioners' report and \$200,000.00 is appropriated for surveys.

CITIES.—When the mayor shall receive a bill for a special city law he shall call a meeting of citizens for a public hearing. A board for licensing and examination of plumbers is continued and their duties and powers defined. Licensed lodging houses are regulated and must register description of all lodgers. Cities of the first class may maintain hospitals for those having pulmonary difficulties.

A commission is to be appointed by the Governor to revise the charter of Greater New York.

CORPORATIONS.—Capital stock not wholly paid for may be sold at public auction for balance of subscription.

Foreign corporations may become domestic by filing charter and relinquishing existence in foreign state.

ELECTIONS.—Persons soliciting money or other property from a candidate for office for the support of a newspaper are guilty of a misdemeanor.

EXHIBITIONS of Agricultural and Horticultural Societies receive additional protection against disorderly persons.

FRAUD.—Carrying on business under an assumed name is prohibited, unless a certificate is filed in the clerk's office.

GAME AND FORESTRY.—Stringent laws relating to the preservation of both have been passed.

A Forest, Fish, and Game Commissioner is to be appointed by the Governor with numerous game and fire wardens.

HEALTH.—The quarantine laws of the port of New York have been remodeled and the powers of the Health Officer greatly increased.

A Tenement House Commission is to be appointed in cities of the first class with powers of examination and duty to report.

A Hospital for the treatment of incipient tuberculosis is to be maintained in the Adirondacks.

INJUNCTIONS may be granted on Sunday.

LABOR.—Seats shall be provided for waitresses in hotels and restaurants.

Drug Clerks shall not work over 70 hours each week.

LIQUORS.—The law regulating the traffic in liquor has been amended. The law now prohibits anyone engaging in the business who has been convicted of felony, or who has knowingly in his employ a person who has been convicted of such a crime, or who is not 21 years of age, or who is not a citizen of the United States and a resident of the state, or one who has been convicted of violating this law within the previous three years, or whose agent within that time has twice been convicted of such violation.

PARKS.—In connection with New Jersey an interstate park is to be created on the Hudson River at the Palisades.

PENSIONS for aged and disabled policemen are authorized in certain cities.

PHARMACY.—A new Board of Pharmacy is created to examine and license pharmacists.

PRIZE FIGHTING and sparring exhibitions are prohibited where an admission fee is charged, and challenges or training for the same is made a misdemeanor.

SCHOOLS.—Compulsory education of certain Indians is provided.

SUGAR BEET industry is encouraged and an appropriation of \$50,000.00 is made therefor.

TAXATION.—Foreign banks are taxed five per cent. of all interest on loans made in the State.

TRADING STAMPS are prohibited.

OHIO.

Biennial Session.—January 1st, 1900, to April 16, 1900.

BOND AND INVESTMENT COMPANIES must deposit with the State Treasurer \$100,000.00 in cash, or in bonds of the United States, the state or of some county or municipality, and make annual report of its business.

ENGINEERS operating engines with boilers of more than thirty horse power and locomotives must be examined and licensed.

A Chief Examiner is to be appointed by the Governor and six assistants are to be appointed by the chief.

FIRE.—A State Fire Marshal is to be appointed by the Governor to investigate the causes of fires and prosecute all incendiaries.

HEALTH.—The Board of Health is to regulate the cutting and sale of ice.

HORTICULTURE.—Nurseries are to be examined annually for contagious and infectious diseases, and all plants and shrubs affected are to be destroyed. Imported plants must have a certificate of inspection.

INSURANCE is permitted against loss by theft or burglary and loss of money in transit.

LABOR.—Machinery in workshops and factories is to be carefully guarded and shall be subject to inspection.

A non-partisan commission is to be appointed by the Governor to investigate and report concerning convict labor in Ohio and other states.

Eight hours constitute a day's work on all public works and for the state.

RAILROADS must maintain waiting rooms at all stations where passenger trains stop.

ROADS are to be improved and may be constructed of stone, gravel, or brick under competent engineers. Not less than one-half or more than two-thirds of the cost to be paid out of the county levy and the balance to be assessed against the property benefitted.

SCHOOLS.—Districts of a township may be centralized and a high school established on vote of the people and bonds therefor may be issued.

SOLDIERS.—An office of Ohio soldiers' claims is created, the chief to be appointed by the Governor. He is to protect and relieve Ohio soldiers and prosecute their claims against the United States.

RHODE ISLAND.

Extra Session, September 19th, 1899, to September 20th, 1899.—Annual Session, January 30th, 1900, to May 4th, 1900.—Annual Session, June 30th, 1900, to July 14th, 1900.

BICYCLES.—The Governor is to appoint a State Sidepath Commission of five cyclists, being one from each county. They serve without compensation, except that they are to be paid their disbursements out of a sidepath fund, which is to be raised by a tax of from fifty cents to one dollar per annum assessed against each cyclist. Licenses are issued and the paths are for the use of those licensed only, all others being severely punished for encroaching upon the paths, which are to be constructed and maintained by the Commission.

BURIAL LOTS.—Executors and administrators may pay to cemetery corporations a sum of money for the perpetual care of the lot in which their testate or intestate is buried.

CATTLE.—The Cattle Commissioner of each county is to inspect all cattle brought into the state. If found to be afflicted with tuberculosis they are to be slaughtered at the expense of and loss to the owner.

CRIMES.—The exhibition of indecent pictures or views by vitascopes, stereopticons, or other like instruments, or of phonographs giving forth obscene or impure language, or the giving or advertising of impure or immoral shows, is made a crime and the instruments and devices are to be forfeited and destroyed.

The taking away, injuring or destruction of growing grain, fruit, vegetables, trees or plants, from public or private grounds, or injury or defacement of any building, is made an offence.

ELECTIONS.—Towns and cities are authorized to purchase and use voting machines.

EXEMPTIONS.—The salary or wages of any debtor up to ten dollars has been exempt from attachment, except upon suit for necessities. This exception has been stricken from the law.

GAME.—The killing of wild deer is prohibited to February 1st, 1905.

LABOR —Trade marks, designs, labels, etc., of labor unions are protected from unauthorized use, and counterfeiting or imitating them is made an offence. Trade marks are to be filed in the office of the Secretary of State. Courts must grant injunctions to prevent improper use of such trade marks, and counterfeits and imitations must be destroyed.

POLICE.—Officers in the town of Bristol shall hold their offices until vacated by death or resignation, subject to removal, after hearing, for misconduct or incapacity.

The Governor is to appoint a Board of Police and License Commissioners for the City of Newport, the citizens of that municipality having no voice in their selection. This departure from local home rule is considered a novel and dangerous departure by many New Englanders.

RAILROADS shall not abandon stations after they have been established and used for twelve months, without the permission of the Railroad Commission.

TOWNS.—The town of Shoreham is authorized to purchase, or aid in purchasing, or construct, a steamboat, to carry passengers and freight to and from the town. The control and management of the boat to be by three commissioners elected by the voters of the town.

They may fix rates and charges and run the boat to Newport and Providence.

WEIGHTS AND MEASURES for various commodities have been adopted.

SOUTH CAROLINA.

Annual Session.—January 9th, 1900, to February 17th, 1900.

AMENDMENTS TO CONSTITUTION.—An amendment was agreed to exempting certain cities from any limitation on bonds issued for water works or sewerage.

An amendment will be voted upon at the next general election permitting assessment to pay for condemnation of lands and the construction of ditches to drain swamps.

AGRICULTURE.—Any purchaser of fertilizers or manure may have the same analyzed by the Clemson Agricultural College. If they shall fall short ten per cent. of the fertilizing ingredients guaranteed, the vendor shall forfeit one-half of the sale price thereof.

CORPORATIONS.—A general act for incorporation of churches, schools, charitable and educational societies has passed.

COURTS.—Special or extra sessions of Courts of General Sessions shall be called on application of the solicitor of any circuit, or a majority of the bar of any county and the Governor shall appoint some man learned in the law and suggested by the Chief Justice of the Supreme Court, to hold the court.

CRIMES.—Statistics of crime are to be had by the Clerk of General Session Courts reporting annually the name, age, sex, and race of all persons brought to trial.

A State Reformatory for the confinement of male criminals under sixteen years of age is established. Races are to be kept separate.

FENCES of barbed wire, within fifty feet of any highway, are to have a plank or pole on the top.

GAME.—Deer are protected by further legislation, and partridges and quail shall not be sold or shipped for five years.

HEALTH.—County Boards of Commissioners are created Commissioners of Health and Drainage and are authorized to require owners of lands, adjacent to streams, to keep them clear; and when, in their judgment, this is impracticable, to

have the work done at the charge of the people who would be benefited thereby.

They are authorized to condemn rights of way for drainage and to assess expenses on adjacent land owners.

The State Board of Health shall declare what diseases are dangerous, infectious, or contagious and bodies dead of such diseases can only be transported under rules and regulations prescribed by the Board, which is also to examine and license embalmers.

Township assessors are to report all infectious and contagious diseases to the Board under heavy penalty.

INSURANCE.—Foreign companies cannot write insurance unless a local agent signs the policy and receives the commission, to the end that the state may receive the tax on the premium.

State insurance of public buildings is provided for.

After January 1st, 1901, all state and county buildings except school houses are to be insured by payment by each county, into the hands of the State Sinking Fund Commissioners, annually, of an amount equal to one-half of the premium it would pay to an insurance company. These payments are to continue until the fund reaches \$200,000.00 and then payments are to cease and be renewed when the fund is reduced below that sum.

LIQUOR.—The State Board of Control is abolished and a Board of Directors of the State Dispensary established, to be elected by the General Assembly. It has control of the purchase and sale of intoxicating liquors.

MEDICINE.—The State Board of Medical Examiners, heretofore consisting of seven physicians, has been increased to ten, the additional members to be homœopathic physicians to examine and license homœopaths.

OFFICERS in many counties are to receive salaries instead of fees, which last are to be paid into the County Treasury.

PARTNERSHIP.—Upon dissolution of a co-partnership and notice thereof no partner can make payment or new promise so as to renew debt against other partners.

PAWNBROKERS are declared to be those who loan money on pledge of personal property, or who purchase personal property on condition of selling it back at a stipulated price. They must pay license and give bond to the municipality.

RAILROADS are required to build connecting tracks for interchange when two or more roads pass through any town or city.

They are not required to run second-class coaches, but two first-class coaches—one for each color—at uniform charge of three cents per mile.

SHERIFFS wilfully neglecting or failing to arrest escaping convicts from penitentiary, jail, or chain gang are punishable by fine and imprisonment.

SOLDIERS who served in what the act calls “the late war between the states,” residents of the state for two years, being disabled and not having an income exceeding one hundred and fifty dollars, or, being over sixty years of age, of an income of more than seventy-five dollars per annum, and certain widows of soldiers engaged in the war so designated, are to receive pensions and a State Board of Pensions and County Pension Boards are created. The sum of \$100,000.00 is appropriated for this purpose.

TEXAS.

Called Session.—January 23rd, 1900, to February 21st, 1900.

The Governor called a special session of the legislature to provide a general tax law, reduce the rate of the ad valorem tax for general revenue purposes, make up any deficiency in the permanent school fund and to act upon any other matters that might be presented under the constitution of the state.

RAILROADS.—In messages from the Governor many other subjects were presented to the legislative branch, among them an alleged danger to railway employes in a system known as “double-heading,” or the placing of two locomotives with one train. The executive states that under this practice there

results the consolidation of two trains into one under a single crew of trainmen, eliminating all the crew of one train, except the engineer and fireman, who, with their engine and train, are added to the other train.

It is evident that the displacing of supernumerary employes had more effect upon the legislative and executive mind than the alleged danger.

The law passed upon the suggestion of the Governor provides that the Railroad Commission shall investigate the matter and have power to correct, regulate or prohibit the abuse and that employes operating trains drawn by two locomotives shall not be held to assume the risk incident to their employment.

SCHOOLS.—An act was passed providing a uniform method of selecting trustees of school districts, defining their duties and prohibiting teachers, trustees, and superintendents from acting as agents of text-book companies.

TAXES.—The ad valorem state tax was reduced.

VIRGINIA.

Biennial Session.—December 6th, 1899, to March 7th, 1900.

AGRICULTURE.—A State Board of Crop Pest Commissioners is created. It is to appoint a State Entomologist and Pathologist, make a list of injurious insect pests and diseases of plants and make rules and regulations for their eradication.

The Board may establish quarantine and inspect nursery stock, and penalties are imposed upon those not complying with their orders or directions, issued under their regulations.

CORPORATIONS transacting business as surety on official bonds, having agents authorized to sign the corporate name, may be bound by such agent without a seal being attached.

COURTS are authorized to exclude from the trial of all criminal cases, felony or misdemeanor, any person whose presence is not deemed necessary.

Dogs licensed and upon which taxes are paid are declared personal property.

DOWER.—The contingent right of dower of a married woman in real estate, in which her husband has no interest, shall be her separate estate and she may dispose of it by her sole act as if she were unmarried.

HEALTH.—Many laws looking to the better protection of the health of the people were passed.

Among them the following are noted. A most stringent act regulating the transportation of bodies dead of contagious or infectious diseases, and prohibiting the shipment of bodies dead from small-pox, Asiatic cholera, yellow fever, typhus fever and bubonic plague.

Another creates a State Board of Health and City and County Boards, with extraordinary powers. The State Board of Agriculture is to analyze food. The act determines with much detail what is adulteration and punishes with severity the sale of adulterated and misbranded food.

INSANE.—The law relating to state hospitals for the insane and the commitment of persons thereto has been remodeled and many beneficial and wholesome provisions added, the legislation upon this important subject being very thorough and complete. Furloughs may be granted to inmates in the discretion of the superintendent.

INSURANCE.—Policies cannot be avoided on the ground that an answer to any interrogatory is untrue unless it is clearly proved that the answer was wilfully false or fraudulent, or that it was material.

Arbitrators and umpires to ascertain losses must be residents of the state.

It is made unlawful for insurance companies to agree upon commissions to be paid to agents, with penalty of heavy fine and forfeiture of license.

LIBRARIES.—Cities and towns are authorized to establish and maintain public free libraries and levy taxes therefor.

MILITIA.—A very full and complete statute has been passed regulating the formation, equipment and service of the state volunteers.

MINORS under eighteen years of age may be committed to the custody of the prison association for an indeterminate period, but not beyond twenty-one years of age.

RAILROADS are required to furnish separate cars with equal accommodations for white and colored passengers, the cars to show in plain letters the race for which they are designed. Any passenger refusing to take his place in the car assigned to his color may be put off the train, with no resulting damages to the company.

They are made liable for injury to or death of employes caused by overhead bridges, when warning signals have not been maintained.

Railroad fences are protected from injury and destruction under penalty of fine and imprisonment.

Trespassing upon cars or trains is made a misdemeanor.

Railroads may connect with each other and a penalty is imposed upon any road refusing so to do.

REFORMATORY.—The Negro Reformatory Association is granted power over minor negroes voluntarily surrendered by their parents or committed by the courts.

STATE shall be subject to garnishment for wages and salaries of all officers and employes.

Forged or counterfeit bonds and obligations of the state may be seized and retained by officers and agents of the state.

STEAMBOATS must provide separate and equal sitting, sleeping and eating apartments for white and colored passengers and those refusing to occupy the locations assigned may be ejected from the boat and fined and imprisoned.

SOLDIERS.—Each city and county is to have a Confederate Pension Board and soldiers and sailors who fought in the so-called “war between the states” and have been disabled, are to be pensioned. Also the indigent widows of all “true and loyal soldiers.”

TAXATION.—The better collection of taxes imposed upon stock incorporations is had by requiring a sworn statement

showing all stockholders, to be filed with the Auditor of Public Accounts.

TELEGRAPH COMPANIES cannot limit their liability for negligence by contract or otherwise, and are liable in special damages for negligence or failure in their operatives in copying, or delivery of messages or for disclosure of contents. Grief and mental anguish are to be considered by the jury.

TOBACCO, in the leaf, when sold upon the floor of any warehouse, shall be weighed by a person sworn honestly and accurately to weigh the same.

TRADE MARKS of various kinds of business are protected and the misuse of the same is punished with severity.

My brethren of the Bar, I have discharged to the best of my ability, and as I could take the time from onerous duties, the task in hand. I would be lacking in appreciation of kindness bestowed and in common gratitude did I not recognize the distinction that came to me last year, when the Executive Committee called upon me to preside over your deliberations in the place of our much esteemed associate, the Honorable Joseph H. Choate, detained from us by the important functions devolving upon him as our accredited representative to the country so near of kin to our own. My thanks are due for the kind consideration extended during our deliberations at the important meeting at Buffalo, made doubly interesting and more valuable by the presence of the organization closely allied to and held in close conjunction with our own, the International Law Association. When you supplemented your gentle courtesy by the presentation of my name for and election to the proud distinction of the presidency of the American Bar Association, you overwhelmed me and I was at loss then and am hard put to it now to express, even in fair degree, my appreciation of your favor. Again I thank you, and shall cherish your act "within the book and volume of my brain, unmixed with baser matter."

THE MARCH OF THE CONSTITUTION.

THE ANNUAL ADDRESS

BY

GEORGE R. PECK,
OF CHICAGO, ILLINOIS.

For something more than a hundred years the people of the United States have enjoyed—or have had the right to enjoy—the protection of a written constitution. Its sanctions and its guaranties have been with them and over them so long that they often seem to be only natural and every-day rights, immemorially existing. But the Federal Constitution was a great creative work. It established a union of states and breathed into it the powers and attributes of nationality. It was a new departure; for, until then, though there had been various leagues and federations united by written covenants, and some small local constitutions, there had been no attempt, anywhere in the world, to make a written constitution on a large scale; one that should be the supreme organic law for a great nation. What is a constitution? The question is more difficult than it seems. In a general way, however, it may be said that it is the system or body of fundamental principles, written or unwritten, under which a nation, state or body politic is formed or governed.

Unwritten constitutions, like the British—that ancient fabric which our fathers knew and revered—are evolutionary, growing from year to year, from reign to reign, and from century to century. Bagehot, writing of the English Constitution, was oppressed with the difficulties of the subject, because of this very element of growth. “There is a great difficulty in the way of a writer,” he says, “who attempts to sketch a living constitution—a constitution that is in actual

work and power; the difficulty is that the object is in constant change." An unwritten constitution is never completed; for, silently, with the growth of years, it is modified and enlarged to meet the exigencies of what Gladstone termed "progressive history." It is an old story; on one side successive demands, on the other successive refusals, until that which was stubbornly contested finally settles down and becomes incorporated in the great catalogue of indisputable rights.

No doubt the English constitution is well adapted to the English people, and they to it. They grew together; the people faster than the constitution, but waiting—generally, though not always, with patience—for the incorporation of ancient and incommunicable rights into the acknowledged fundamental law of the realm. Well did Tennyson describe the process by which the British constitution was evolved, when he wrote:

"A land of old and just renown
Where freedom broadens slowly down
From precedent to precedent."

It is, perhaps, not quite accurate to speak of the British constitution as an unwritten one, for its great features were written in black and white to the end that they should never be forgotten. Such was Magna Charta, of which Professor Stubbs says that the entire body of English constitutional history is but a commentary upon it. Such was the Petition of Rights; the Habeas Corpus Act of 1769; the Bill of Rights, and the Act of Settlement. These are parts of the British constitution, not because they are in writing, but because they are of such fundamental character that they are presumed to inhere in the common rights of British subjects.

But, gentlemen, it need not be said that the British constitution, however splendid its proportions, could not suffice when the American people proposed to embark upon a career of separate nationality. They had their local charters, constitutions and laws; they had the articles of confederation, and each had for itself the English common law. But all

these did not, and could not, make a nation; or if you like the term better, a national government. Surely never did men face a graver responsibility than did those who undertook to bring order out of the chaos which then enveloped them. They proposed to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to themselves and their posterity.

This lofty enumeration of their purposes was, in itself, a solemn judgment upon the Articles of Confederation, which, indeed, all men knew were entirely inadequate for gathering or holding the fruits of their struggle for independence. "The Confederation," in the language of that great lawyer, Horace Binney, "was no more than the limited representative of other governments, and not a government itself. It was a league of sovereigns, but not a sovereign." Indeed, it is not a just use of language to call that a government which had no executive, no coercive power, no power of energetic offense or defense, and no means of raising revenue beyond the voluntary contributions of the different states. Washington's genius was of that sane, clear-eyed quality which does not often indulge in figures of speech; but the man who never gave up hope when his armies were in the field against appalling odds said, in 1786:

"It is clear to me as A, B, C, that an extension of federal powers would make us one of the most happy, wealthy, respectable and powerful nations that ever inhabited the terrestrial globe. Without them, we shall soon be everything which is the direct reverse. I predict the worst consequences from a half-starved, limping government, always moving upon crutches, and tottering at every step."

The Father of His Country seldom suffered his mind to be moved from its serene equipoise; and it was surely an alarming situation that could wring such language from him.

And so the Convention which framed the Federal Constitution was called. It is curious to note how little was said

by those who pressed upon the people and upon the State governments the necessity of a convention, about the paramount reason that was in their minds, which was that the country was rapidly drifting into anarchy. The governors and dignitaries who were working together to bring about a convention, the legislatures that passed resolutions in favor of it, and the great leaders who in private life were so influential in moulding public opinion, generally veiled the real meaning of the movement by talking about the necessity of a better understanding in respect to their commercial relations, a fair distribution of trade, the construction of canals and other such matters, which, though certainly important, were as nothing when compared with the immediate and imperative necessity of transforming the confederation into a government of real national vigor, possessing not only the authority which belongs to a nation, but the power to vindicate it at home and abroad.

It is a hard thing to make a constitution—still harder to make a good one, or one which can be relied upon to stand the strain of actual use. Nevertheless, the delegates undertook the task, and began in a manner which augured well for the success of their efforts, when on May 25th, 1787, by a unanimous vote, they chose George Washington to preside over their deliberations. In a little less than four months the work of the convention was finished. The instrument they framed is known to all—at least its language and the general scope of its various provisions. Time has shown, and every year it becomes clearer, that Gladstone's oft-quoted panegyric was profoundly true, when he said: "The American Constitution is the most wonderful work ever struck off at a given time by the brain and purpose of man." The men who framed it were not mere visionaries. They were, almost without exception, calm, thoughtful men, who thoroughly apprehended the problem they had to solve, and knew that it could not be worked out by declamation, nor by passionate discussion of the abstract rights of Man, nor by mutual congratulations that they had wrested from the Mother Country an acknowl-

edgment of their independence. They were called upon to construct—or, rather, to reconstruct—and to that great task they bent their energies, patriotically, intelligently and triumphantly.

What order of men they were is shown in the light of a historical contrast which is full of dramatic interest. France was in trouble—a trouble more serious, more tragic, more frightful than any which ever before confronted an existing order of things. The Revolution was upon them. Poor Louis the Sixteenth was struggling in a blind way with the forces, political, social and intellectual, which were ultimately to bring his reign to an end and his head to the block. On the very day that George Washington was elected President of the Convention, the great assembly of the Notables—the first which had met since the days of Richelieu—adjourned. They had sat two months and utterly failed to do anything which could save France. Then came another meeting of the Notables and of the States General, the National Assembly, the Constituent Assembly, and that fruitless and utterly abortive attempt to make a constitution which should save the King's crown and the people's rights. Carlyle, in his saturnine way, observes of this depressing effort:

“A constitution can be built; constitutions enough, *a la Sieyès*, but the frightful difficulty is that of getting men to come and live in them. * * * The constitution, the set of laws or prescribed habit that men will live under, is the one which images their convictions—their faith as to this wondrous Universe; and what rights, duties, capabilities, they have there; which stands sanctioned, therefore, by Necessity itself; if not by a seen Deity, then by an unseen one. Other laws, whereof there are always enough ready-made, are usurpations which men do not obey, but rebel against and abolish at their earliest convenience.”

This language may seem extravagant and not altogether intelligible, but in it there is that essential grain of truth which is in all that Carlyle wrote. Their attempt at constitution-

making failed, for it could not rally to its support any faith in its inherent strength or genuineness. It simply collapsed when put to the pitiless test of those pitiless times. Great hopes had been centered in it, hopes of deliverance, hopes of happiness and hopes of peace, but Carlyle sums up the result in a single sentence, which he makes the heading for one of his grandly picturesque chapters: "CONSTITUTION WILL NOT MARCH."

But, gentlemen, the constitution our fathers made had the marching quality in it; and our history records how it has marched in good and evil days, sometimes through perils and difficulties, sometimes seeming almost ready to halt, but always moving forward. The people who framed it, and the people who adopted it, never considered it perfect; some of the members of the convention refused to sign it, and its adoption was fiercely opposed in many of the states. In the convention, Franklin, old and feeble in body, but with unimpaired intellectual vigor, urged the members to sink their personal objections for the sake of the great issue at stake. "Thus I consent, sir, to this constitution," he said, "because I expect no better and because I am not sure that it is not the best. The opinions I have had of its errors I sacrifice to the public good."

Though the work of the convention was not entirely satisfactory to any member, nearly all accepted it as the best then attainable, and only three refused to sign it. It was nearly three years before all the states came in under it, and when Rhode Island gave her tardy assent, the government of the Union was already in operation, George Washington was President, and the constitution had begun its march.

It is impossible to over-estimate the difficulties that confronted the men upon whom devolved the duty of administration in the new government. They were to be guided by the constitution, but the constitution itself was not entirely clear, and many different views were held as to its meaning. It was the result of a large number of compromises between different classes of political thinkers and between different localities and

interests. As has been truly said, "Nobody liked all its provisions, and everybody feared some of them." And yet, no one can doubt that its adoption was a great, wise and patriotic act; for all experience has shown that statesmanship is not the obstinate reaching out for the unattainable, but the acceptance of the best that is within reach. It was the profound recognition of this truth that secured its adoption, without the provisions soon afterward incorporated in the first ten amendments, the absence of which in the original draft caused so much opposition. The good sense of the American people accepted the work of Washington and the convention over which he presided, as infinitely better than the Confederation, even if there were in it, to the minds of most men, obvious imperfections. Many, many great causes have been wrecked by the unyielding opposition of narrow minds, seeing only a single point of small and trifling moment in the great scope of the cause itself. Such minds there were in that day, and such there have been always, who, honestly believing that human wisdom is centered in them, cling fast to the things which are petty and insignificant, and sacrifice those which are of supreme value. But the constitution was adopted; and those who had opposed it were loud in their prophecies of failure; and those who had supported it were not without doubts. Its friends could only admit frankly that it was an experiment which must wait the test of time.

The organization of the government under the constitution was one of the greatest events in human history. It was not a dramatic affair, such as when Napoleon put upon his head the iron crown of Lombardy; it was grave and stately in a certain republican fashion, as became a people who were establishing a nation, with a fixed, a determinate organic law, and were proposing to move forward within its limits. But what were its limits? What were the powers of the new government? Were the people of the United States a nation with a national government, or only citizens of their respective states and of a federal union of states? These questions had not

been settled in any authoritative way. As Judge Cooley has said: "The decision upon them, when thus presented, might determine whether the constitution was to be a bond of union or a rope of sand; for the practical construction might make it one or the other."

This only means that, after all, the constitution which had been declared to be the supreme law of the land must needs be subjected to the test of construction and interpretation. The almost infinite variety of questions which might become subjects of litigation would surely call upon the courts, and finally upon the court of last resort, for judicial announcements of the scope and meaning of every provision. Such is the infirmity of human language that members of the convention who had voted for the constitution differed as to the meaning of its various provisions. It was plain from the first that the Supreme Court would have to grapple with great and difficult questions. The composition of the court, and particularly the order of mind which should be possessed by the Chief Justice, were matters of weighty importance. Again I quote from Judge Cooley, whose great learning, high character and eminent judicial abilities have so endeared him to our profession:

"When the time is considered, and the circumstances under which the duty of authoritative construction must be entered upon, one cannot fail to be impressed that peculiar qualifications were essential in the person who should preside over the body to whom that duty would be entrusted, and who would give direction to its thought. He ought certainly to be a learned and able lawyer; but he might be this and still fail to grasp the full significance of his task. A mere lawyer might see in the Constitution nothing but an agreement of parties, to be construed by technical rules; it required a statesman to understand its full significance, as an instrument of government, instinct with life and with authority."

You will note, I doubt not, in the language I have quoted, the phrase "a mere lawyer." Far be it from me to say that "a mere lawyer" may not be a very well-meaning and useful

man. But he never was and never will be a great judge. In this country, every judge, state and federal, is, or may be, called upon to decide questions arising under constitutions, and such questions require historical knowledge, an insight into the meaning of organic laws, of the duties and obligations of citizenship, and, finally, of the great purposes of a constitutional and an institutional government. John Jay, our first Chief Justice, was lawyer, statesman and diplomat, a student of literature, and a man of unbending integrity and spotless character. To his hands and the hands of his associates the new and untried constitution was entrusted. It is interesting to read the proceedings of the court in those first days, when questions of practice and procedure were constantly coming up and receiving the careful consideration of the court, and were about the only questions before it. There was little business in the eleven years which preceded the appointment of Marshall, and only six constitutional cases were decided.

In one, *Ware vs. Hylton* reported in 3d Dallas, John Marshall was counsel for defendant in error, and was badly beaten, all the judges save Iredell being against him—and Iredell against him on part of the case. This was at the February Term, 1796. Five years later, on February 4, 1801, John Marshall himself took his seat as Chief Justice of the Court which had turned a deaf ear to the only argument he had made before it.

Thus far the constitution had marched; but it must be admitted its pathway had not been a smooth one. The people had already learned that the Supreme Court was a body claiming enormous powers—powers that thousands of good men viewed with sincere alarm. From the first the country had been divided on the question whether there should be a strong national government, operating directly upon the people, or a mere agency for certain purposes, while the vigor of effective government should remain in the several states. In the convention and before the people there had been earnest, sometimes angry, discussion of this question. Those who had

hoped that it would be settled by the language of the constitution itself were doomed to disappointment, for, studying it sentence by sentence and line by line, it was evident that the argument was not closed. The question was simply changed from : "What government is best?" to "What government has the constitution actually given us?"

The Supreme Court has been eloquently called "the living voice of the constitution," and from its organization it has courageously assumed the right to speak the final word as to its meaning, and as to the rights it grants and the obligations it imposes. We are so much accustomed to connecting the name of Marshall with the establishment of constitutional principles that we have hardly done justice to the court as it stood before his appointment. They were learned men, they were honest men, and they were—which is scarcely less important—firm and unwavering in the performance of every judicial duty. When *Chisholm vs. The State of Georgia* was brought before them, the country was aflame with excitement. Mingled feelings of astonishment and indignation filled men's minds, at the thought of bringing a sovereign state into court like an ordinary debtor. The opinion of Justice Wilson—himself one of the signers of the constitution—is a quaint and curious piece of judicial literature.

"This is a case of uncommon magnitude," said Justice Wilson. "One of the parties to it is a State; certainly respectable, claiming to be sovereign. The question to be determined is, whether this State, so respectable, and whose claim soars so high, is amenable to the jurisdiction of the Supreme Court of the United States? This question, important in itself, will depend on others more important still; and may, perhaps, be ultimately resolved into one, no less radical than this—'*Do the people of the United States form a Nation?*'"

This grim question was destined to rise from time to time until finally answered on the battlefield. Judge Wilson gave his own answer toward the close of his opinion in these words :

“Whoever considers, in a combined and comprehensive view, the general texture of the constitution, will be satisfied, that the people of the United States intended to form themselves into a nation, for national purposes. They instituted, for such purposes, a national government, complete in all its parts, with powers legislative, executive and judiciary; and, in all those powers, extending over the whole nation.”

When it became known that the court had held the State of Georgia to be suable by a private citizen, an overwhelming demand went up for an amendment to the constitution, and so the eleventh amendment was straightway adopted. A large portion of the people thought the decision in *Chisholm vs. Georgia* wrong, and it must be admitted that the question involved was a very doubtful one, and to this day lawyers differ as to its correctness. But the adoption of the eleventh amendment removed the question from discussion, except by historical students.

When Marshall took his seat it was plain enough to all that he would have many uncomfortable experiences and much rancorous criticism. Though he was of a singularly calm and equable temperament, no one in the station to which he was called could expect to escape the hostility of faction. He was a Federalist; and Jefferson, whose administration came on less than a month after Marshall's appointment, was a Republican. These two great men, both Virginians, both patriots, both sincerely devoted to the principles of constitutional liberty as they understood them, entertained for each other a dislike almost amounting to hatred. Each considered the other a dangerous enemy to the liberties of his country, and neither concealed this opinion from his intimate friends. The result was bitter hostility—more or less hidden by the proprieties which rested upon each—but still well understood by their friends and partisans.

It is not worth while, now, to judge between them, for the names of both are cherished by all their countrymen. But I believe the settled opinion of good lawyers and of statesmen

whose minds have the conservative strength, which is the real test of statesmanship, is that, on this fundamental question, Marshall took the broader and the safer view. He believed, and avowed his belief, in a strong government; and so also did his adversaries. But they believed the strength should be in the separate parts, while he believed it should be in the sum of all the parts—the Nation. Our subsequent history has told how vain it was to rely on judicial decisions to settle such a question. What the language of the constitution had left open to discussion, the people continued to discuss. It is not fair to say that the advocates of state rights, so called, had nothing on which to base their claims, nor that they were perversely wrong who believed the federal government was but a mere contrivance to enable the states to get along comfortably with foreign nations and with each other—so long as each state could have its way. Of course, as we see it now, the scheme of a constitutional government for the Union was a far more comprehensive scheme than that. It was, indeed the great conception of John Milton: “—not * * * many sovereignties united in one Commonwealth, but many commonwealths under one united and intrusted sovereignty.”

When Marshall came to the bench, he had to face the question which Judge Wilson had asked in *Chisholm vs. Georgia*, —“Is the United States a Nation?” And he answered it, in those monumental opinions which preserve his memory and will preserve it forever.

John Marshall was the simplest of men in his daily life; a Virginia gentleman, content to move in the path of duty, but with the iron firmness which is much more common in gentle natures than is generally supposed. Because he was a Federalist, it was often said that he was the advocate of an aristocratic government; but it is hard to see how one can be charged with favoring an aristocratic government who simply believed that there ought to be a direct connection between that government and all its citizens, with no intermediary between them. The philosophical student has not failed to see

that it was not the believer in the supremacy of the nation within its accorded limits, who favored an aristocracy, but the champion of a system which would make all rights dependent upon the permission of an assumed sovereignty, local but imperious.

The first case in which Marshall was called upon to go deeply into the theory of our government is *Marbury vs. Madison*, a case familiar to our profession as a great landmark of constitutional law. Though the writ of mandamus was denied, the Chief Justice showed by a wealth of argument which has never since been questioned that the relator was entitled to the writ—though not from the Supreme Court. The great value of the decision lies not so much in the conclusive demonstration that all officers of the government are, in the performance of their ministerial duties, bound by the law, and subject to the courts, as in the luminous and convincing discussion of the question: “What is the duty of the judiciary when a statute not authorized by the constitution is asserted as the basis of a legal right?” If Marshall had hesitated or flinched, if he had parleyed with duty or compromised with consequences, our experiment of a constitutional government would have been a failure so great as to have carried destruction with it to all such experiments for generations to come. It seems easy now for a judge to have walked in so plain a path. But we should not forget that constitutions before that time—and since also, except in the United States—were never supreme in any real or literal sense. Unwritten constitutions are constitutions only by fiction. In England constitutional principles are much discussed, but no one ever claimed an act of Parliament could be ignored or disregarded for a supposed or real violation of that intangible and liquid ideal called the British Constitution. It seems strange to us, but yet in England an act of Parliament may be unconstitutional, and still be legal and valid. In other words the British Constitution is perfect as a text, but worthless when Parliament preaches the sermon. But the omnipotence of Parliament is a very

different thing from the acts of a legislature whose powers are circumscribed by the only omnipotent thing in our government, which is the constitution ; not a list of precedents and prescriptive rights, but the deliberate will of the people set down in written words, by the only sovereign authority—the people themselves. No court in the world, outside of the United States, would presume to disregard a legislative act, on the ground that it violates the constitution of the country, written or unwritten. Coke, De Loime, Blackstone, and the great commentators on the British Constitution, give us a surfeit of the omnipotence of Parliament, which, it is said—apparently as an admission against interest—cannot transform a man into a woman or a woman into a man, but can do anything else.

In *Marbury vs. Madison*, the great Chief Justice, as was his habit, reduced the question to its utmost simplicity by asking other questions : “ To what purpose are powers limited ? ” he inquired, “ and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained ? ” And he answered : “ Certainly all those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the Nation, and, consequently, the theory of every such government must be that an act of the legislature repugnant to the constitution is void.” Mark the word “*void*”—not doubtful or questionable, but VOID.

It was in this great case that we find the maxim which has come down through our judicial history, and has been asserted in many important cases, that “ the government of the United States is a government of laws and not of men.” Within the last twelve months the Supreme Court of the United States, speaking by Justice Brewer, again announced it in *Railway Company vs. Tompkins*.

And so, gentlemen, the constitution has marched ; and one of the greatest steps it ever took was when John Marshall gave distinct notice that it was the supreme and ultimate law against which nothing could prevail. There were men in those days

—patriotic statesmen, according to their lights—who sincerely believed the doctrine that the Supreme Court could declare an act void on the ground that it violated the constitution, was an unwarranted and dangerous assumption of power. “Why should the judiciary,” they asked, “override the co-ordinate branches of the government? The President must decide for himself. Congress must decide for itself on all such questions” —which only meant that constitutional provisions were but high-sounding phrases, signifying nothing.

The next great forward step of the constitution was *McCulloch vs. Maryland*, famous in our judicial annals, because it involved a question absolutely vital in the relations of the National government to the governments of the states. In *Marbury vs. Madison* the court had held that an act of Congress repugnant to the constitution is void. Now came the question which, under our form of government, was much more serious: Is a State statute which is repugnant to the Federal Constitution also void? Both these questions seem entirely plain and simple now, but we must remember that in the beginning the people were, as Edmund Randolph had so happily said, “in the infancy of the science of constitutions.” I am inclined to think that *McCulloch vs. Maryland* was the most important and far-reaching decision in all Marshall’s career as Chief Justice. It is certainly the most powerful discussion of constitutional principles in the history of the court, a classic for lawyers and for statesmen. Though there were but two questions to be decided, it is impossible for even a dull man to read the opinion without gaining a fairly correct idea of the theory of our government and its great principles. You know, as every American lawyer knows, the two questions involved:

1st. Has Congress power to incorporate a bank?

2nd. If it has, can a state tax it?

The intellect of John Marshall was a strange compound of the practical and the ideal. This is not so rare, however, as is sometimes supposed. Lincoln had it in a degree which was

almost sublime. Napoleon had it; Cromwell had it, and Mansfield, according to Pope, was another Ovid, expounding the law when he might have been writing the poems of his own and of future ages.

Marshall opened his opinion by a few sentences which showed that the man was not unconscious of what the judge was about to decide. He said: "The constitution of our country, in its most interesting and vital parts, is to be considered; the conflicting powers of the government of the Union and of its members, as marked in that constitution, are to be discussed; and an opinion given, which may essentially influence the great operations of government. No tribunal can approach such a question without a deep sense of its importance, and of the awful responsibility involved in its decision."

Gentlemen, it is a masterful quality in a judge to be able to perceive the far-reaching effects of his decisions; for the responsibility increases as the consequences grow more distinct and formidable.

The next sentence of this great judgment is pathetic in the evidence it bears how gladly he would have found some honorable way of escape, some sanctuary in which his duty would suffer him to take refuge. But there was the question; and the court of which he was Chief Justice could not shrink. He added, with undaunted firmness: "But it must be decided peacefully, or remain a source of hostile legislation, *perhaps hostility of a still more serious nature*; and if it is to be so decided, by this tribunal alone can the decision be made. On the Supreme Court of the United States has the constitution of our country devolved this important duty."

You would not thank me to go over the decision point by point to show how unerringly he demonstrated that the government of the nation is supreme within the scope of its powers, that it may avail itself of all necessary and proper means of exercising those powers, and that neither Maryland nor any other state can interfere with, cripple or impede its lawful operations as a government. Jurists and statesmen, from that

day to this, have found the opinion a treasure-house of constitutional principles from which in many great emergencies they have liberally drawn.

McCulloch vs. Maryland was decided at the February Term, 1819. At the same term the decision in the celebrated Dartmouth College case was pronounced. More than any other case it has entered into the discussion of questions involving corporate rights, and their protection from legislative impairment. The court had already held in *Fletcher vs. Peck*, 6 Cranch, 87, that a legislative grant is a contract and entitled to the protection of the constitution from a subsequent legislative act annulling the grant. But the grant involved in *Fletcher vs. Peck* was one of lands made by the legislature of Georgia in 1795, and, therefore, after the adoption of the Federal Constitution, while in the Dartmouth College case, it was of a corporate charter granted by King George the Third, in 1769. It is a matter of familiar legal history that the old charter was held to be a contract, and that the legislature of New Hampshire could not amend or materially alter it without violating the constitution. It has sometimes been thought, both within and without the legal profession, that the court pushed the doctrine of the inviolability of contracts from legislative impairment too far in this case. But it seems to me the decision was not only sound, in law, but useful and salutary in its effects. It is not so frequently cited now as formerly, because almost all statutes for the organization of corporations contain provisions authorizing the legislature to alter or amend, and so the right to do so becomes a part of the contract itself.

As I have already said, and as you know from your familiarity with the history of the times, the subject of commerce, and the commercial relations of the different states, was one of the great inducing motives that led to the adoption of the constitution. It was not the only one, and perhaps not the principal one, but it was a very powerful one. Trade and traffic, buying and selling, exchanging commodities and carry-

ing on the extensive operations which are incident to modern civilization, were in men's minds then as they are now, and will be always. Before the constitution, Maryland, Delaware and Virginia; New York, New Jersey and Pennsylvania, wrangled and disputed over duties, restrictions and regulations calculated to advance the interest of one against the others, for selfishness has always been a largely controlling motive of human action. When the framers of the constitution inserted the provision vesting in Congress the power to regulate commerce among the several states, they stamped upon their work the indubitable evidence of practical wisdom. But what is commerce? What is regulation? These questions have followed the path of our national progress. It has not always been easy to answer them, and they have left in their wake many unsettled and indeterminate inquiries. The present Interstate Commerce Law is an attempt to solve some of them, and is certainly a great forward step in the development of the constitution. I believe, and I think the belief is shared by our profession and by the business interests of the country, that the theory of the act is right, and that the time will come when the great purpose of the constitution in respect to commerce will be attained. It takes time to build up the structure of legal right upon the basis of acknowledged principles, and we must remember that successful legislation seldom precedes the acquiescence of those most largely affected by it.

Gibbons vs. Ogden, decided in 1824, is the great source to which all must go who would understand the scope and import of the commerce clause of the constitution. Again, the great Chief Justice had to face the pretensions of a sovereign state, and to strike down one of its statutes. There is a certain solemnity in all of Marshall's constitutional decisions; a solemnity becoming a great magistrate with such duties to perform. No judge ever had to walk in a harder path. But he never faltered, and his judgments have stood every test, as the firm and convincing pronouncements of the law.

Gibbons *vs.* Ogden upheld the exclusive power of Congress to regulate commerce among the states, wherever it has legislated upon the subject. The argument in the case dealt largely with the question whether navigation is commerce, but Marshall, answering the question in the affirmative, added in that conclusive way which no other judge ever equaled or approached: "Commerce undoubtedly is traffic, but it is something more; *it is intercourse.*" It would almost seem that he was prophet as well as judge, for in that sentence he unconsciously foretold the railroad, the telegraph, the telephone and all the wonderful appliances by which science compels nature to be the servant and minister of man.

In this great case Marshall rendered a service to his country in laying down the true principle of construction, as great, perhaps greater, than in construing the commerce clause which was before the court. He vindicated the constitution as a working instrument of government. He made it, if I may say so, what in modern litigation we call "a going concern." In all Marshall's opinions I recall nothing more filled with the wisdom of the hour nor more useful to the generations that were coming on, than his fine disposition of the argument that the constitution must be strictly construed. "What do gentlemen mean," he asks, "by a strict construction? If they contend only against that enlarged construction, which would extend words beyond their natural and obvious import, we might question the application of the term, but should not controvert the principle. If they contend for that narrow construction which, in support of some theory not to be found in the constitution, would deny to the government those powers which the words of the grant, as usually understood, import, and which are consistent with the general views and objects of the instrument; for that narrow construction, which would cripple the government, and render it unequal to the objects for which it is declared to be instituted, and to which the powers given, as fairly understood, render it competent; then we cannot perceive the propriety of this strict construction,

nor adopt it as the rule by which the constitution is to be expounded."

There is something very noble and elevating in the discussion towards the end of the opinion, of the powers of the states and of the general government, where he speaks of "powerful and ingenious minds," who would explain away the constitution "and leave it a magnificent structure, indeed, to look at, but totally unfit for use." Gentlemen, John Marshall was not "a mere lawyer."

His judicial career and his earthly career ended July 6, 1835. He had been Chief Justice thirty-four years, and it is only true of him to say that, "take him for all in all," he was the greatest judge that ever lived. By the common and unfettered judgment of the bar, by the unanimous voice of statesmen, jurists and scholars, he was the oracle of our constitutional law, the interpreter, the expounder, and in a certain sense the maker of the constitution. True, he was not a member of the convention that framed it, but he was a member of the Virginia convention that passed upon and adopted it, and when he came to the bench he took up as the cases came before him the great questions presented and solved them unerringly and, as we all know, conclusively. During all his long incumbency of the chief judicial office there never was a day that the constitution did not move forward, as a constitution should, to meet the crowding exigencies of human affairs.

And so, gentlemen, the constitution marched; and without exaggeration it may be truly declared that John Marshall was its guide, its light and its defender. Our profession looks upon him with a somewhat idolatrous feeling, but I do not think it is excessive. When we consider what might have been our fate if another and not he had occupied that great seat, we may well believe that Providence watched over the Republic. He interpreted the constitution, but he interpreted it in the comprehensive way which made it a thing of life instead of death; a chart of government instead of a collection of meaningless phrases. Only two Americans are better entitled to

the gratitude of our people—George Washington and Abraham Lincoln.

When Marshall died, our government under the constitution was less than half a century old. He had laid the foundation of our constitutional law, in that massive and enduring way which was his wont. His judicial temperament was such that it was not possible for him to see any question simply on its technical side. He had, in its fullest measure, that "large discourse" of which Shakespeare speaks, "looking before and after." Since his day many constitutional questions have arisen, are still arising, and, we may be sure, will continue to face us with the flight of years. But the hard ones came in that formative period, when the path was dim and untrodden. If you will read the subsequent reports of the great court over which he so long presided, you will find few constitutional decisions that do not draw from his opinions as from a perennial fountain. An eminent lawyer, Judge Simeon E. Baldwin, in his Presidential Address before this Association for 1891, said, and at that moment John Marshall must have been, consciously or unconsciously, in his memory: "Constitutions are nothing unless enforced in the spirit in which they were conceived. In them, more than in any other thing of human foundation, 'the letter killeth.' " Surely a constitution for a great Nation, a Nation whose founders knew that it would, and intended that it should, grow, must be construed with a view to the Nation's needs, and its possibilities.

Roger B. Taney, who succeeded Marshall, was a man eminently fitted for that exalted position. Learned, able, patient, honest, he filled the ideal of a great judge. But, like Marshall, he had a temperament; like Marshall, he belonged to a school. Strict construction was as dear to him as it was odious to his predecessor. But, gentlemen, our profession can never fail to acknowledge the services of Chief Justice Taney upon the bench, the sincerity of purpose, and steadfast devotion to his sense of duty, which always characterized him.

In all frankness, let me say for myself—and I believe for my profession—I wish there had been no Dred Scott case. It attracted so much attention; it touched the minds and souls of men so deeply that Taney's name is inseparably connected with it. And yet, who of us is prepared to maintain that, apart, from the admitted *obiter* in the opinions, the *decision* was wrong, as the law then stood? Let us be just. Judge Taney was sustained by the entire court, save two, McLean and Curtis. It matters little now who was right and who was wrong; for the issue went to a higher court and was settled forever.

It cannot be said of Chief Justice Taney that he did not, in his lofty estimate of judicial duty, uphold with a firm and equal hand the rights of litigants, high and low. In the License Cases, he sustained the reserved powers of the states in their proper field of police regulation. In *Charles River Bridge Co. vs. Warren Bridge*, he applied his life-long principle of strict construction to grants of public franchises to private corporations. Here he found most appropriate occasion for the application of this principle, and in so doing established, as the permanent doctrine of the Supreme Court, the ancient rule of the common law, that all public grants must be strictly construed against the grantee.

This doctrine has been most beneficial to the country. Denying the right of any corporation to enjoy a monopoly in an avenue of transportation and travel, he stimulated, and to a large degree made possible, that great industrial development upon which the country was then entering.

Unfortunately for a calm and entirely just estimate of his judicial career, his lot was cast in a period of angry political discussion, and anxious solicitude for the fate of our institutions. As Chief Justice, it came to him in the order of duty to administer the oath of office to Abraham Lincoln as President of the United States. When these two men, each with a different image of our Government in his mind, stood face to face on the east porch of the Capitol, what strange emotions,

memories and hopes crowded upon them ! The venerable Chief Justice, bowed with the weight of years, and the sad feeling that a new and stormy period was opening before the country, could only perform the duty of his office, and silently repress his gloomy forebodings. The new President, filled with a solemn sense of the future, appealed to all his countrymen, North and South, in words which will live forever : "We are not enemies, but friends ; we must not be enemies ; if passion may have strained, it must not break, our bonds of affection." This sad and tender language did not conceal, and was not intended to conceal, the inflexible purpose of the man. He had already said in that same inaugural, and for four weary years he abided by it,—“I hold that, in contemplation of universal law and of the constitution, the union of these states is perpetual.” It is not too much to say that in that moment, the voice of John Marshall spoke again.

I need not, on such a theme, recount the story of the war. During that memorable conflict the courts, wherever they could, continued to exercise their ordinary jurisdiction. And if questions sometimes arose which brought the unwelcome answer, "*Inter arma silent leges*," no one now doubts that the essential principles of the constitution retained their vigor. The three great amendments that followed the war, and which made freedom and equality organic in our law, were the logical and irresistible conclusion of that great struggle.

The fourteenth amendment, perhaps in a larger sense than its framers realized, and certainly more than the Supreme Court at first recognized, is the great anchorage for the rights which essentially belong to citizenship in a free government. By the fifth amendment the people had protected these rights against arbitrary encroachments by the general government ; while by the fourteenth amendment, they in like manner protected them against the arbitrary exercise of power by any of the states. Taking them together, they are to us what Magna Charta was and is to the English people ; yet with this distinction, that under our system fundamental rights are not

mere abstractions. Here, constitutions mean what they say; and every citizen may appeal to the courts for their vindication.

When these guaranties were thus made uniform in respect to both national and state legislation, the constitution took a forward step; and when in 1886 the Supreme Court decided* that these guaranties extended to every person, natural or artificial, another great advance was made.

Notwithstanding the able opinion of that great jurist, Mr. Justice Miller, in the Slaughter House Cases,—and although the profession quite generally believe the main question involved, which was one of police power, was correctly decided—the large scope of the fourteenth amendment, maintained in the dissenting opinions of Justices Field, Bradley and Swayne, and concurred in by Chief Justice Chase, has since become the established view of the court in numerous decisions. In none of them, probably, has the doctrine been more convincingly expressed than by Mr. Justice Harlan in the great case of *Smyth vs. Ames*. Speaking of the fourteenth amendment he there said:

“In view of the adjudications these principles must be regarded as settled:

“1. A railroad corporation is a person within the meaning of the fourteenth amendment declaring that no state shall deprive any person of property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

“2. A state enactment, or regulations made under the authority of a state enactment, establishing rates for the transportation of persons or property by railroad that will not admit of the carrier earning such compensation as under all the circumstances is just to it and to the public, would deprive such carrier of its property without due process of law and deny to it the equal protection of the laws, and would, therefore, be repugnant to the fourteenth amendment of the Constitution of the United States.

* *Santa Clara Co. vs. Southern Pac. Railroad*, 118 U. S. 394.

3. While rates for the transportation of persons and property within the limits of a state are primarily for its determination, the question whether they are so unreasonably low as to deprive the carrier of its property without such compensation as the constitution secures, and therefore without due process of law, cannot be so conclusively determined by the legislature of the state or by regulations adopted under its authority, that the matter may not become the subject of judicial inquiry."

It has been supposed by some students of our national history that a written constitution is an inert mass of tabulated provisions. The supposition is not correct; for the national constitution, under the guidance of our great court of last resort, has grown and developed, not, perhaps, like an unwritten one, but still keeping abreast with the demands of "progressive history." This does not mean that a written constitution grows by being violated whenever its provisions stand in the way of national progress; but it does mean that our constitution was, by the enlightened foresight of its framers, made to be an intelligent guide and chart, not a mere list of obstacles. The American people in constructing their constitutions, both national and for the states, cherished the great features of the English constitution, of which they, as well as the English, were heirs, and so their work has ever been preservative of the old, as well as creative of the new.

In the complex workings of modern civilization, large fortunes have been rapidly accumulated, and great wealth has been centered in few hands. People naturally ask: Would a just order of social and economic relations permit this to happen? Whatever the true answer may be to this inquiry, no one acquainted with the general history of the human race, or with our own history as a Nation, can doubt that the well-being of our people depends upon maintaining sacredly the equal rights guaranteed by the fifth and fourteenth amendments, to rich and poor alike. Property, because it is most easy of attack, is most frequently attacked. This is no new illustration of

human nature, but is a part of the phenomena of all history.

When the Centennial Anniversary of the Supreme Court was celebrated in New York, the venerable Justice Field said, with the prophetic dignity which became that solemn occasion :

“ As population and wealth increase—as the inequalities in the conditions of men become more and more marked and disturbing—as the enormous aggregation of wealth possessed by some corporations excites uneasiness lest their power should become dominating in the legislation of the country, and thus encroach upon the rights or crush out the business of individuals of small means—as population in some quarters presses upon the means of subsistence, and angry menaces against order find vent in loud denunciations—it becomes more and more the imperative duty of the court to enforce with a firm hand every guaranty of the Constitution. Every decision weakening their restraining power is a blow to the peace of society and to its progress and improvement. It should never be forgotten that protection to property and to persons cannot be separated. Where property is insecure, the rights of persons are unsafe. Protection to the one goes with protection to the other; and there can be neither prosperity nor progress where either is uncertain.”

In English history, as in our own, most of the great questions which mark the progress of legal rights have grown out of small property disputes. Men have invariably been more ready to engage in litigation over concrete questions than to go to law about abstract principles. The historic assertions of personal privilege which have come down to us from Hampden's day have generally risen from some slight encroachment upon the property or rights of a single individual.

It was but an injunction suit brought by the State of Texas against private individuals claiming ownership of certain United States bonds that gave us the great pronouncement upon the nature of our government; which, all things considered, is perhaps the most valuable judicial utterance ever made under our constitution. “ The Constitution, in all its

provisions," said Chief Justice Chase, "looks to an indestructible Union, composed of indestructible States."

The indestructibility of the states, when thoughtfully considered, is the surest guaranty of an indestructible Union. Throughout our constitutional history we have carried on the most complex system of government known to man;—and to-day I venture to assert that, notwithstanding its complexity, it has been so administered as to combine more of liberty to the citizen with more of power in the nation than any other constitutional government. The states, unimpaired in their just powers, carry on the due operations of local administration unfettered;—and the Union—which is a union both of people and of states—has long since passed the time when any court or any statesman may renew Justice Wilson's inquiry :—
"DO THE PEOPLE OF THE UNITED STATES FORM A NATION?"

GROWTH OR EVOLUTION OF LAW.

BY

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The subject of this paper is the Growth or Evolution of the Law.

The law in its aspects and evolution presents so many analogies to the biological world, that it is deemed best to present the subject by an exposition of these analogies.

If we look at the sum total of life, which exists or has existed on the earth, we find that a large number of species, animal and vegetable, have become extinct and that some species are mere survivals and are moribund.

The sum total of law, obsolete, repealed or overruled, and existing, presents similar aspects.

Obsolete and repealed law is the fossil world of the law. All of us know of the great volume of the repealed or overruled law; but few of us, until our attention has been specially directed to it, are aware of the greater volume of obsolete law—that is, law which has never been repealed, but has merely ceased to be law.

Reeves, in his History of the Common Law, estimates that one-third of the ancient learning of the law became obsolete by the substitution of the action of ejectment for the old forms of real actions. The complex and voluminous doctrines of tenure, at one time the principal part of the law, have to a large extent disappeared in England and either were never brought to America, or, if brought, have perished amidst inhospitable conditions, without direct repeal. The same is true of tithes, advowsons, titles, offices and commons, as forms of property, and of copyholds as a species of tenure.

In every department of the law we can find doctrines and remedies which have simply dropped out of existence. What has become of terms attendant, of trial by battle and other things almost innumerable?

Law that is becoming obsolete corresponds to moribund species in the biological world. The action of account at law, and other remedies and doctrines belong to this class.

But the survivals of the law are more interesting and of more practical importance than the repealed or obsolete law. A survival in law may be defined to be an institution, legal form or law, coming into existence under one set of conditions, which continues to exist under changed conditions, not adapted to it and to which it is not adapted.

It would be a laborious but interesting and instructive task, if time permitted, to point out a number of these survivals. They are everywhere; in the forms of the law; in its institutions; in its classifications; in its rules; in its reasons; in its policy; in the mental attitude of lawyers—everywhere.

Pick up an ordinary deed of conveyance; one clause begins “to have and to hold, etc.” The word *hold* is a survival of the *tenendum* in deeds under feudal law. The word *have* is not a survival, so far as the clause defines the estate which the grantee is to take; but the whole clause is a survival in so far as it perpetuates a special clause called the *habendum*, in addition to the granting clause, for defining the estate to be taken by the grantee—and an unfortunate survival, for we still have many cases in which there is a discrepancy between the granting clause and the *habendum*.

The phrase in the *habendum* “to the use of” is the one in reference to which Lord Hardwicke (1 Atk. 591) made the remark that “a statute (*i. e.* the Statute of Uses) introduced in a solemn and pompous manner in order to abolish uses and trusts altogether, has had no other effect than to add at most three words to a conveyance.” And this phrase is now a survival, as no trust results when it is omitted.

Take up an indictment. In many of the states it ends "against the peace and government of the state," or some equivalent phrase. This phrase was substituted for the phrase "against the peace of our lord, the King," used in England. To understand it one must study the somewhat complex doctrine of the King's Peace. It is a pure survival and has been made unnecessary by statute in England and some of the states. I presume cases could be easily found where justice has miscarried from the omission of this phrase, or from mistakes in its form. These survivals persist in legal forms, as rudimentary organs do in individual animals.

They show us too, that survivals exist in the very beaten paths of the law. In its parts of more infrequent application they are more numerous.

The classification of property into real and personal property, was based on the fact that all forms of permanent property were brought under feudal law, and movable and destructible property was not. Feudalism has faded into obsolescence. The doctrine of estates with a few exceptions has been transferred to those forms of personal property which are not consumed in the use; and yet the classification remains as a pure survival. Rational classifications are movable and immovable property; forms of property, like land, cattle, furniture, existing in nature, and forms of property or rights, such as a right of way, a rent, a future estate, a lien, not existing in nature; things fungible and things not fungible.

The distinction between law and equity originated in the fact that the law, after admitting certain rights and remedies, became crystalized and inelastic. Equity built up a system modifying and supplementing the common law. Its work was simply an amendment and expansion of the law. The two have been amalgamated in England and in some of the states. The continuance of the distinction is a pure survival, except possibly so far as it persists to protect property from the uncertainty and unreliableness of the jury trial. The preponderance and quality of evidence necessary to set aside deeds

for fraud, mistake, duress and undue influence, the complexity and counter rights of many controversies, and similar matters, no one yet seems willing to fully commit to a jury, and this is apparently the only reason for the persistence of such remnants of the distinction between law and equity as exists in places where there has been a partial amalgamation.

The distinction between forms of action, between special and simple contracts and between felonies and misdemeanors, are all, to a greater or less degree, survivals, persisting after the reasons for their existence have ceased, and fruitful perhaps only of harm.

Legal institutions furnish such curious examples of the bending of institutions designed for one purpose to another purpose, that it is difficult to say in cases how far they are survivals.

A Justice of the Peace is a very different thing now from what he was one hundred years ago. The diminished power and dignity of the office, and the decline in the character and attainments of those who hold it, would indicate that its continuing, at least with judicial functions, is a survival. As judicial officers, I would say the same of Coroners.

The case of the jury presents greater difficulties. Its original function was to make inquisition, largely on the view, of some simple fact, such, for example, as the age of a person, the value of property, etc., in aid of some court. It was by a gradual process converted to its present uses. No one can deny that the process of selecting juries, the sometimes necessary practice of shadowing them through long protracted trials, the great duration of many jury trials, the chance of the miscarriage of trials from death or sickness, and from juries failing to agree, or from erroneous instructions given jurors, have in many cases reached the proportions of monstrous scandals or led to the miscarriage of justice.

If we take the opinion of great judges and lawyers on the subject, it seems to be about a stand-off. For every Justice Miller who can be produced favorable to the jury, a Lord

Wensleydale, unfavorable to it, can be produced ; for every Choate, a Biddle.

Some of the stock arguments in its favor are not arguments at all. It is said to have an educational value, but it is not designed for this purpose ; it is a part of the machinery for administering justice, and not a part of the educational system. It is a poor compensation to litigants who may get injustice, to know that they are paying tuition for the instruction of jurors by suffering injustice and being amerced in costs. The game of wits and the pleasurable excitement and surprises in jury trials, may furnish entertainment to acute and ready lawyers, but their clients have not gone into court for the purpose of furnishing such entertainment.

The great argument against the jury is one we seldom hear. It is, that it employs inexperienced men to do a thing which can only be well done by specially experienced men. To extract the truth from a mass of testimony, incomplete and conflicting, generally presented without order, chronological or logical, requires an expert who has natural mental aptitude, special training and experience. Every experienced mind in looking at such a mass of testimony first builds a frame work or skeleton of the facts (often physical and documentary), which are clearly proved or undisputed. The disputed points must be so resolved that they will fit into this frame work. Juries constantly fail in this process either by not applying it or applying it inartistically.

Pleading at the common law raised specific issues direct and intelligible to the average mind, and controversies in the old law were comparatively simple. One of the sources of jurisdiction of equity was that classes of cases involved complexities and counter claims to which the tribunal of a jury was unfitted. The decision of many cases of which equity took jurisdiction depended on degrees of preponderance of evidence or on certain qualities of evidence, such as clearness or definiteness. In some of the states in which law and equity are amalgamated, these classes of cases are still tried by

judges; and, in those in which such questions are submitted to juries, the judges instruct on this quantum and these qualities of evidence, and set aside verdicts not in accordance with the instructions. All this shows that there always has been and still is, a lack of confidence in the ability of juries to perform the work imposed on them. Indeed it is not too much to say that it would be a direct attack on the security of property to commit the decision of certain questions to juries, and this for the reason that a jury is not competent to decide them. Even when decided by judges, presumed to be expert, they are subject to review by appellate tribunals.

Another count in the indictment against juries is that the jury trial is responsible for many of the distortions of the law of evidence. I am relieved from enlarging on this subject by the recent work on Evidence by Professor Thayer of Harvard University.

Nor would it be difficult to find many distortions of the substantive law traceable to the same source.

On the whole I am disposed to think that the jury is a survival.

There are also many examples of survivals of legal reasons. In strictness there is but one legal reason for anything in law: it is so enacted or has been so decided; and for a lawyer reasoning is not in good form. In the Civil Law it is different, for there the reason is implicated with the law. But reasons have been given for decisions by judges, and to these in similar or analogous cases, lawyers may appeal. It so happens that legal principles resting on ancient reasons no longer of any force, may continue, and new and satisfactory reasons may be given for their continued existence. In such cases it is measurably unlawyerlike for a lawyer to give the modern and real reason, instead of the reason which exists merely as a survival. The true modern reason for the rule that a consideration, actual or implied, is essential to a contract is that it prevents a class of frauds. The existence of the consideration shows a transaction back of the contract, and the person who under-

takes by false testimony to impose a contract on another, has the double labor of establishing the contract and the transaction. Yet one may possibly look in vain for this reason in the law books. The legal reason for the consideration was, in executed conveyances, to repel resulting trusts, and in simple contracts to furnish the element of injury to sustain *assumpsit*, which was originally an action on the case.

Amongst the rules of law it would not be difficult to find survivals in every department of law. In the United States constitution we have the rule that bills for raising revenue can only originate in the House of Representatives. This provision was brought into the constitution as a part of the compromise between the large and small States; but it would never have suggested itself to anyone but for the fact that it was in the British constitution. Practically it serves no useful purpose in our constitution. In some states, contingent remainders are still destructible by the termination of the particular estate before the remainder vests, or by merger, the rule in Shelley's Case remains, rents charge or seck are unapportionable, days of grace persist, and so on indefinitely.

In English law, when the judges went on circuit, the judgments were not returned to Westminster and enrolled until the beginning of the succeeding term. Quite a number of consequences followed from this, such as the rule that motions to strike out judgments must, except in certain cases, be made during the term at which they were rendered. This rule remains in some of the states.

But there is probably no more instructive group of survivals than those arising from changes or revolutions in the policy of the law.

Take one example: The early law was adverse to the alienation of property and to the assignment of contracts. The modern law is favorable to bringing all things *intra commercium*. The whole time allotted to me here, and much more, might be consumed in pointing out some of the curious effects this reversal of policy has had on the form and substance of the law. I

will merely refer to one to show how remote some of its effects are. In one of the states I have found this curious history. In the process of breaking down the rule that contracts were not assignable, various exceptions were made, such as that if A promised to pay B a sum of money and on any theory this sum of money could be treated as an existing fund, A might agree with B to pay it to C, and C might then sue for it, on the theory that it was the assignment of a thing, to wit, the fund, rather than of a contract. Other exceptions followed until it came to be held that if A contemporaneously with his promise, received a consideration from B, he could by his promise agree to pay C a sum of money or do some act beneficial to C. This was held on the theory that this was not assigning a pre-existing debt or contract. The court under the impulse of more modern conceptions, in the anxiety to whittle away the doctrine of the non-assignability of contracts, fell into the absurdity of holding that a person not a party to a contract and in no way privy to the consideration can sue on it—a thing which in reason and according to competent judicial authority is rank nonsense.

Another interesting class of survivals is to be found in the minds of lawyers themselves. It is now well known that in very early law, when law existed only in the form of customs, the distinction between what was right and wrong, reasonable or unreasonable, just or unjust, quadrated with the distinction between what was custom or law and what was not custom or law. Sir Henry Maine has defined equity to be a process of engrafting on the law rules based on principles of morality and justice recognized for some reason as being higher than those already imbedded in the law. The early time of which I am speaking antedates equity and this conception. At that time what was custom was right and what was not custom was wrong. Who has not encountered lawyers whose mental attitude to the law is a survival of this primitive time? They measure what is just and right by the law and seldom attempt

to measure the law by what is just and right. I can point to two notable illustrations of this.

The law when Lord Coke wrote was far from being the embodiment of common sense. If it was, we have been going wrong ever since and have in these last days landed far away from common sense. Yet he, who had himself contributed to bereave the law of some of its common sense by the scholastic cast of his mind, pronounced it, as it then stood, the very embodiment of common sense. His attitude of mind was a survival from primitive times.

So great a lawyer as Chief Justice Gibson—and he was a very great lawyer—is quoted in the text books as commending the rule in *Shelley's Case*. Now, there is no difficulty, if one is skilled, in creating a contingent remainder in the heirs of an ancestor to come after a particular estate given to the ancestor; the books give special devices for it. Nor is there any policy of the law against it. The rule in *Shelley's Case* consequently is a mere trap for the unskilled and unwary. I can but view Judge Gibson's attitude of mind to this matter as a survival from the time when the law measured what was the right, and the right did not measure what should be law.

I have dwelt, perhaps at too great length, on this subject, not only to exhibit the analogy between the sum total of law past and present and the sum total of life past and present, but also to emphasize certain aspects of the law. I now return to the analogy.

The forms of life disclosed by geology show that the biological world has undergone progressive morphological and functional changes, and that what is dead and extinct bears intimate relation as precursor and progenitor of what is living. Geology thus discloses a history of which the fossil world is a chronicle. Even in individual living organisms rudimentary organs and surviving maladaptions to new conditions, are a chronicle.

This chronicle is the history of an evolution or growth from lower to more highly organized forms and functions,

from fewer to more numerous forms. It is a story of constantly increasing complexity and differentiation.

The same is true of the law. All of it, past and present, in the whole and in the particular, is a chronicle, and the best of all chronicles. It is a history written by facts and not by prejudiced, perverted or incompetent pens.

It is a history of increasing complexity and differentiation. Take, for example, the story of the doctrine of estates or forms of ownership. It begins possibly with life estates, or with life estates and estates in fee simple, as the only estates of present possession. From these the fee conditional, afterwards converted into an estate tail, is differentiated. Then come terms of years, estates at will and from period to period (year to year).

Future interests were at first reversions after life estates, and possibilities of reverter after fees simple. Then came reversions after estate tail, remainders, vested and contingent, coming after, and theoretically, for feudal reasons, constituting one with the precedent particular estate; then came conditional limitations, first in the form of springing and shifting uses, and then in the form of executory devises, where the future estate takes effect in derogation of the precedent estate. Meanwhile we had joint tenancy, tenancy by entireties, coparceny, tenancy in common and partnership estates, following in order.

Confining the term *estate*, as it now is in strictness, to an interest which gives the right of possession, present or future, joint or several, with the general and undefined rights of use incident to proprietary possession, this list gives all of the possible estates of which the mind can conceive with the exception that possibly the number of forms of co-ownership could be increased.

But while the several estates were being differentiated, other elements of variation appeared.

Implied conditions could from the first terminate estates. Express conditions were subsequently admitted, and these

could fix the end, beginning or enlargement of estates. This gave rise to modifications of the rights of the tenant of the estate on condition, might impose duties on the person to perform the condition, and gave rights to the person entitled to the estate on the performance or non-performance of the condition. In the special cases of mortgages and conditions of re-entry for non-payment of rent, the law ran out into a peculiar and complex history.

Limitations also appeared, fixing events up to which estates might run and not, like conditions, ousting the pre-existing seizin. They brought a new crop of interests.

Covenants also appeared and those which ran with the estate could modify the alienability or incidents of the estate. Here again was a new crop of rights and duties attaching to ownership.

The introduction of uses with the system of double estates and titles, added to the increasing maze of complexity. The attempt to abolish them by the statute of uses, and the revivification of them as trusts added further elements of complication.

Then came powers, common law, legislative and resting on the statutes of uses and of wills, appurtenant, appendant and in gross, with their increasing crop of interests.

Then there gradually came a long catalogue of incumbrances: incorporeal rights, mortgages, judgment liens, vendors liens, lien of *lis pendens*, liens for debts of deceased owners, mechanics liens, &c., too numerous to mention.

While all this was occurring, the methods of transferring estates or interests were multiplying: inheritance, livery of seizen, deeds of various kinds and operating on various theories, wills, transfers of equitable interests or estates, adversary possession, estoppel, dedication, abandonment, subrogation.

Those subjects of estate, called incorporeal hereditaments, became in America less numerous, but the species of them called easements, when seen from the view point of the dominant estate and servitudes from the view point of the servient

estate, became more numerous and there seems to be no proposed limit to their creation in America, although, in England, a disposition has appeared to restrict them.

By this process it has come about that almost any kind of conceivable estate or interest can be created in land, subject to the restrictions imposed by the rule forbidding restraints on alienation, the rule against perpetuities, and the rule, where it exists, forbidding limitations of property which confer its enjoyment on a person without making it liable for his debts.

Lastly, this whole doctrine of estates, with specified exceptions and limited modifications, was bodily transferred to all forms of personal property not consumed in the use.

Probably the biological world, with its vast variety of form and function on land and in the sea and air, does not present a more striking example than this one in the law of increasing complexity and differentiation.

In the strictest sense, of course, the term *organism* can only be applied to an individual, animal or vegetable; but using the term *organism* in its broadest sense it can be applied to the animal and vegetable world as a whole. Similarities of form and functions are found everywhere; the addition of a species or individual gives rise to adjustments between the new and the old, and readjustments among the old; the subtraction of a species or individual, has the same effect. Interrelations and inter-influences between species are numerous.

Measurably the same is true of the law. It is not a mere incondite heap of rules. The repeal of a rule is not a mere subtraction from an aggregation. Every change is followed by readjustment. It has an automatic power of maintaining its consistency and symmetry. If anything could destroy this consistency and symmetry, it would be legislation, and yet the courts will not permit this. One of the most frequently applied, and least frequently expressed, rules of interpretation is that statutes must be so construed—as to fit them into the existing laws, common and statute, so as to leave no breaks or

inconsistencies, and to this end they are construed strictly or liberally and made subject to exceptions and qualifications. This is done on the incontestable assumption that the Legislature did not intend to pass an isolated law, but a law which was to be a part of the whole legal system.

In reason and by rule, where the language of a statute is clear, we cannot resort to extraneous considerations in interpreting it. But as a matter of fact, the courts do resort to such considerations, and the purpose for which this is most frequently done, is to prevent gaps or inconsistencies in the law.

Furthermore, the relations between the parts of the law are much more intricate and interdependent than is usually supposed.

It looks like a simple thing to abolish the distinction between sealed and unsealed contracts, or between felonies and misdemeanors. But let anyone undertake to follow out the results, and he will be surprised at the number of consequences and the remoteness of some of them. And the actual passage of a law abolishing either of these distinctions would bring out consequences which neither knowledge or acuteness had anticipated. There is nothing which shows the poverty of the imagination as the law does.

The evolution of the law, like evolution in the biological world, is unconscious, or only to a small degree conscious or directed by mind.

Clothing, improved dwellings and changes in food have modified the evolution of man. The domestication of animals and the cultivation of plants, have modified them; but in these cases the change came without conscious purpose to produce change. The attempt to improve plants and animals by the application of the principles of breeding—a thing quite recent—was the beginning of the conscious, direct attempt to modify species.

The more I have studied the history of the law, the more I am convinced that only a small part of it is the product of

direct purpose. The substratum of the law was custom, the formation of custom was almost certainly unconscious. Back of the additions and changes produced by judicial decisions were impulses and leanings of which the judges themselves were little conscious. Why did the judges become hostile to the *feudal* incidents of estate, to entails, to the unalienability of property and contracts? Doubtlessly it was an impulse felt by the whole community as well as by the judges, and they moved with the mass. Always and now the prevalent sentiments and desires of the people have moved the judge along with them. Decisions, in limits, register what is accomplished or desired, rather than deliberately formed purposes of change or reform. The judge who contrived common recoveries, or the fictions in ejectment, contrived things in themselves absurd, to accomplish what the exigencies of affairs had importunately demanded, and did not introduce self-conceived reforms.

The activity of legislatures in modern times has served to diffuse the idea that the making of law is conscious and on lines deliberately selected. Probably the best refutation of this is to be found in the series of addresses delivered by the Presidents of the American Bar Association. By the rule of the Association these addresses are an annual review of the legislation of this country. The thing they have most impressed on me is the small effect schemes of reform have had on this legislation. Events, accidents, the protection of life and health, burdens actual or supposed, inconveniences, frictions, &c., make legislation. This Association has tried to have a uniform code, regulating commercial paper, adopted by the several states. Most of it is a codification of existing laws. Its principal effect will be to correct mistakes which have been made in some of the states. Everyone commends it; no one seriously opposed it. Yet after years we have only gotten fifteen states to adopt it. Compare this with the spread over the country of the laws giving greater freedom of divorce. These laws were opposed by a formidable public

opinion ; but the importunacy of the unhappily married, prevailed.

Biological forms and functions are evolved from preexisting forms and functions by gradual and not by sudden changes. New forms and functions come only by the accumulation of small changes in old forms and functions.

The same is true of the law. Its history shows no cataclysm or revolutionary changes.

From the foundation of Rome to the reign of Justinian there is perfect continuity in the development of the Civil Law. The Twelve Tables were a mere codification of preexisting law. The displacement of the Republic by the Empire, neither checked nor changed the current of legal development. The barbaric irruption, possibly the greatest social cataclysm the world has seen, led to the development of feudalism. But the barbarians did not import feudalism, it was evolved on and out of the novel conditions.

Remnants of the Civil Law, greater or less in different localities, modified or controlled this evolution throughout the Middle Ages. Nor did the revival of the Civil Law, possibly the most potent factor in the Renaissance, immediately supplant feudalism. The process was very gradual.

The French Revolution, another social cataclysm, was a great cleaning out of feudal remnants, and possibly represents as abrupt and extensive a change of law as ever occurred in so short a time ; but the restoration of the monarchy was a partial reversion to it, and there are now survivals of feudalism in Continental jurisprudence.

The Common Law has a similar history. We can trace its evolution without a break from the German forests to England, and thence to the United States. The Teutons who came to England did not coalesce with the Britons. They displaced them and transplanted their social organization and laws. The Norman Conquest is generally said to have brought with it the feudal system. But conditions in England similar

to those on the Continent had already developed a system of organization and law not unlike feudalism. William the Conqueror, promised to retain the ancient laws of England, and the introduction of feudalism was the work of the lawyers, and at first affected the theory of the law rather than the substance. The decay of feudalism was as gradual as its rise, and even now many survivals of it are to be found in our laws—survivals of its nomenclature, of its reasons and of its substantive rules.

On the settlement of the United States, our ancestors brought with them the Common Law of England as bodily as they did their personal belongings. Local and other circumstances in their new home made a part of that law inapplicable, and they thus escaped many of the vexatious legal problems of the parent country. But even this extensive and beneficent change serves to prove rather than disprove the continuity of legal evolution; for far the larger part of the law, which they did not bring with them, was moribund in its original habitat.

The Revolution made no interruption in legal growth, so little in fact, that some courts in the United States have held that decisions in England since the Revolution in cases of first impression, are authoritative here, on the theory that they are exfoliations of the common law which we brought over with us.

So much for the continuity of legal systems. But what is true of the system is true of its parts; what is true in the general is true in the particular. The same continuity appears in the separate departments and doctrines of the law. Possibly as great a change as has been made is the amalgamation of law and equity in England and some of the United States; but this change was prepared by giving an equitable character to certain proceedings at law, such as the common count for money had and received, motions to strike out judgments, etc., and by statutes allowing equitable defenses in actions at law. And when the amalgamation came it was completely bereft of its radical character by retaining the old method of trial in

equity cases, or where this was not done, by the courts tying up the juries with instructions.

If we look to remoter causes, biological evolution originates in the want of adaptability in the forms and functions of organisms to conditions; and evolution is mere progress to greater adaptability. If the conditions remained stationary life might reach a state of stable equilibrium in perfect adjustment to conditions. But the movement is towards a moving goal.

To this the law presents striking analogies. At any one time its struggle and tendency are to the then existing conceptions of right, justice, reason and public policy. The standard fixed by these is its goal.

In primitive times the law itself was considered to embody all of what is right, just, reasonable and politic, and this remains in the case in non-progressive legal systems. In progressive systems, a standard outside is raised to which the law moves mostly by judicial decisions, using the devices of fictions and equity. The history of this extraneous standard in our system would begin with Greek philosophy, possibly with the Stoical doctrines of living according to nature and of a law of nature. In this doctrine, vague as it might be, were embodied the fundamental principles of morals and justice, and conceptions of simplicity, order and symmetry. Roman prætorian law is another independent source of the conception of a standard outside of and superior to the law. In the classic age of Roman jurisprudence these two coalesced; prætorian law then merged in the civil law proper, was elevated, classified and simplified by the doctrine of the law of nature, and the result was to make Roman law one of the grandest of all moral codes and one of the greatest products of the human intellect. The writings of the classic jurists constitute one of the noblest of literatures.

This standard, worked into the law, on the revival of the study of Roman law, diffused itself over the continent of

Europe and percolated into England by contacts with the Continent, or was bodily imported in the law of personal property and in equity, probate and admiralty, law.

Returning to the methods in which this growth takes place, we find some of them to be of great interest.

I need not dwell on the curious part which fictions and equity have had in this growth, as there is probably little to add to what Sir Henry Maine has said on this subject.

Some phases of this growth show, as is the case in the biological world, that the adaptation of the law to a state deemed just has only been reached after a number of tentative positions, which err first on one side and then on the other, like the motions of a pendulum, until the law finally settles, as the pendulum does, at a middle point.

Take as an illustration the law of mortgages. These took the form of estates on condition—probably at the time the only form they could take. On default the property passed absolutely to the mortgagee. This was unjust to the mortgagor; for the transaction was not designed to end in a sale, but as a security. Then equity interposed and gave the mortgagor the equity of redemption; that is, the right to redeem after and notwithstanding the default. This was unjust to the mortgagee, as the mortgagor might take his own time to apply to equity to redeem. Then equity restricted the right to redeem by decreeing it to be foreclosed if not exercised in a fixed time. This might be unjust to the mortgagor because it might end in the mortgagee taking the property, when the true purpose was that the mortgaged property should be a security for the debt. Then the legislature interposed and substituted for a strict foreclosure a foreclosure by sale. At last the law, after a long vibratory process, first inflicting wrong on one party and then on the other, settled down to a just position.

There is an exactly similar story connected with the condition in leases avoiding the term if the rent is not paid on rent day.

Another striking, and one might almost say, startling, example of this movement of the law to extremes before settling down, is to be found in the history of common law pleading.

The law on this subject, partly from the fact that it fell under the influence of the scholastic logic, and partly from the inherent disposition of lawyers to refine, became in the last degree technical. The extreme particularity required in the allegations, the multiplication of counts, and many other things, made special pleading an abstruse art. When the revulsion came the law bounded to the other extreme by the admission of the common counts in debt, *assumpsit* and *indebitatus assumpsit*, and the general issue pleas. This was practically no pleading at all; and the common law system of pleading presented the startling contrast of permitting in some cases the loosest possible pleading, and requiring in others the strictest possible pleading. Then commenced the work of making the common counts and general issue pleas perform some of the functions of pleadings. The right to a bill of particulars was established and the doctrines incident thereto; there was a gradual definition of the classes of cases in which the common counts could and could not be used, and the exact matters put in issue by the general issue pleas were gradually defined. Thus, with the possible exception that the general issue pleas do not give sufficient notice to the plaintiff of the specific grounds of defense, the law settled down to a substantially just, but unreasonably complex system of pleading in these cases.

Another process familiar to legal advance with its analogies in the biological world, is the laying down of rules too general or broad, and afterwards trimming them into shape by modifications, qualifications and exceptions, and even by modifications, qualifications and exceptions to modifications, qualifications and exceptions in the first, second or nth degree.

The history of estoppel by record, *in pais*, and equitable estoppel furnishes a striking illustration of this process, the

details of which must here be omitted. The action of deceit or fraud, correlated with equitable estoppel, suits against telegraph companies for mistakes in telegrams, and many other doctrines and kinds of action, furnish illustrations of this same process.

But, as has been said, biological evolution moves towards adjustment to conditions which themselves move; the goal moves and stable equilibrium is unattainable.

So with the law; it moves towards existing conceptions of right, justice, humanity, reason and public policy. But these move; morals have a history; justice, humanity and reason have a history; public policy has a history; and they all have a future of change and movement.

On the whole these histories show a progress, with occasional halts and reverse movements, to a higher ethical code, greater justice and humanity, improved powers of reasoning and more enlightened conceptions of public policy, and thus it has been that the law as a whole has, with local and temporary exceptions, always tended upward.

Recent examples of it may be found in the expansion of the actions of trespass on the case, the protection of married women by equity and legislation, the doctrine of equitable estoppel and the rule that, where one of two innocent persons must suffer, that one of them who has put it in the power of a third person to inflict the injury must bear the damage.

In response to the demands of reason we have the fading of the historical and now artificial classifications, such as real and personal property, special and simple contracts, forms of action, law and equity and felonies and misdemeanors, the gradual substitution of more rational classifications where any classification is needed, the rationalizing of pleading, practice and evidence and many other things.

But while the law moves towards what is sound in reason, the movement is not uniform and there are eddies and reverse currents in it, just as there are in biological evolution.

A Lord Mansfield may endeavor to substitute the distinction between written and unwritten contracts for that between special and simple contracts, and a Lord Eldon may retire from this rational position.

Our Supreme Court may hold an executed agreement, that is, an agreement with no executory element in it, to be a contract instead of a muniment of title, although Sir Henry Maine says that the conception of an executed agreement was disentangled from the conception of a contract in Roman Law during the time of the Kings.

Our Supreme Court may hold that the grant of a franchise by the state is a contract, although there is no mutuality, for a sovereign cannot be sued, and the alleged consideration does not come up to the true meaning of a consideration.

Notwithstanding all this, reason struggles, as it is struggling in these very cases, to assert itself, and will triumph in the end.

The changes in conceptions of public policy and their influence on the law call for more extended comment.

The common law, as a law of property, originated in community ownership of lands and cattle and crops, far the most valuable of properties in early times, and in the inalienability of property rights. It only recognized executed agreements transferring such personal chattels as were permitted to be owned by individuals. Criminal responsibility was largely group, or corporate, responsibility, or a mere personal responsibility to those injured. There was in such a system little or no field for industrial competition, and when such competition appeared it was largely suppressed by trades and professions being hereditary, and by guilds.

The conceptions of policy embedded in this system have been completely reversed. Ownership and responsibility are now individual, there is complete power to alien property and almost complete freedom to mould the incidents of property and complete freedom of contract; competition is now universal, and as merciless as nature and natural selection.

This radical revolution of policy has been worked into the law through centuries.

There are not wanting signs of coming changes in conceptions of public policy on these subjects. Leaving out of view the various schools of socialists with their literatures and philosophies, we have a growing class favorable to government ownership of railroads and telegraphs, and municipal ownership of certain species of property—water and light plants, tramways, warehouses and wharves and, I believe, ice plants have been added.

Corporations and Trusts represent a return on a large scale to co-ownership. The separation between ownership and control, the destructibility and frequent destruction of interests in corporations and trusts, arising from want of business ability in their creation, from unforeseen events, and from bad and dishonest administration, are shaking confidence in the sacredness of vested rights; and labor unions, corporations and trusts are destroying or mitigating competition.

In fact, there may come a complete reversal of the fundamental conceptions and policies of the law. But we need not picture to ourselves any cataclysm: such as the complete banishment to the limbo of inutilities of the whole fabric of our law by the removal of the foundations on which it is bottomed:—individual ownership, free contract and free competition. The change will not come *per saltum*; so far as it has already come, it has been written into the law and so it will continue to be. The trust, including of course, labor unions, is a movement from an industrial organization where labor is underpaid, where employment is too frequently interrupted, where production is feverish and spasmodic, where much useless labor is done, where administration and machinery are good, bad and indifferent, where the pace set by competition is killing and the way is strewn with wrecks, where supply is not measured by demand, where collapses of the fabric of credit and panics are frequent and acute, where prices are subject to too great and too sudden fluctuations. I am not here

concerned with the question of the goodness or badness of the movement; what I am concerned with is that it is automatic and that despite all opposition it is being written into the laws, and this is being done by a slow process and not by a revolution.

But morals, justice, humanity, reason and public policy are incidents of the mind and character of man, and would not themselves have a history, if man, as an animal, with his endowments of mind and character, was not himself evolving.

It is, of course, a mere platitude to say that law, which concerns human beings, is determined by the nature of those human beings. But the point to which it is here desired to call attention is that the cause of the improved conceptions of morals, justice, humanity, reason and public policy, advance, because man as an animal advances. Back of legal progress lies as its impulse and stay the very physical nature of man and its evolution. This is the very substructure of legal progress.

Nothing could be more shallow than the common belief that man is the same now that he always has been. Leaving out of view all the biological facts and theories, the radical change of the very nature of man in historic times can be demonstrated. In a sense, men have in historic times had the same mental faculties, passions, emotions and desires. Very high specimens of the species can be found in early times, although there is generally something childlike in their mental constitution, and very low specimens of the species may be found now, although oftener than is supposed there is in these low specimens marks of an intellectual maturity. But the law deals with masses and it is the mental endowments and characteristics of the mass which have undergone such marked changes.

Everyone knows that men in masses in all countries where civilization has advanced, are less credulous, less excitable, less passionate, and consequently more capable of self-restraint

or control, more able to judge what it is practicable for them to accomplish and to measure any opposition they may encounter, and every one must realize how radically all of these things must modify law.

I have thus far spoken of the evolution of law as possessing numerous analogies, some of which I have pointed out, to the evolution of life; but, in very fact, life and law are but parts of the general frame of things which is all-subject to one law of evolution, and what we see in the parts is not the working of analogous laws, but of the same law.

The history of the law is part of the history of social life and of altruism. Law advances as man progresses. His progress rests on his physical evolution. Thus the ultimate spring of legal progress is physical, and this fact more than anything else, gives security to what has been accomplished and promise of what will be accomplished.

The view of the growth of the law here presented is not novel. It is to be found here and there in the literature of the law. Many of those who oppose the codification of the law, rest their principal objection to it on this view. They fear that the law if codified will become fixed and inextensive, and that its slow and healthful growth will be checked or stopped. This particular opinion I do not share; but it is interesting as showing the prevalence of the view that the law grows by a process of organic accretion.

I find the following passage in a short tract on the Amendment and Alteration of the Law, by Sir Matthew Hale. He says:

“It is most certain that time and long experience are much more subtle and ingenious than all the wisest and acutest wits co-existing in the world can be. They discover such varieties of emergencies and cases, and such inconvenience in things that no man would otherwise have imagined. And on the other side, in everything that is new, at least in most things,

especially relating to law, there are thousands of occurrences and entanglements and coincidences and complications that would not possibly at first be foreseen. And the reason is apparent, because laws concern such multitudes and those of various dispositions, passions, wits, interests, concerns, that it is not possible for any to discover at once or to provide expedients against in the first constitution of a law * * * so that in truth ancient laws, especially that have a common concern, are not the issues of the prudence of this or that counsel or senate, but they are the productions of the various experiences of the wisest thing in the inferior world ; to wit, time, which, as it discovers day by day new inconveniences, so it doth successfully apply new remedies ; and indeed is a kind of aggregation of the discoveries, results and applications of agents and events."

Much that I have said is a mere expansion of this and a translation of it into post-Darwinian language.

ULTRA VIRES CORPORATION LEASES.

BY

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The title of this paper sufficiently indicates its scope. I propose to consider this one question, namely, what is the legal effect of a lease which is *ultra vires*, or beyond the powers of the corporation executing it? The question appears to be a simple one, and the answer equally simple. In reality there lurks in the question itself a fallacy which renders it impossible to answer the question except by an elaborate explanation. The fallacy lies in the use of the term *vires*, or powers, which, if not necessarily ambiguous, is almost certain to create an ambiguous impression. A corporation is organized under a special charter or a general act which provides that the corporation may do certain things, and either expressly or by implication that it may not do other things. The corporation executes a lease which is not authorized by the provision of its charter. This lease is said to be *ultra vires* or beyond the powers of the corporation. What is its legal effect? We are here concerned not with any question as to the construction of corporate charters, but simply with the effect of leases clearly unauthorized by such charters.

It is obvious that there are three possible objections to the validity of any *ultra vires* act.

The first is that the corporation has no power—that is to say, no legal capacity to produce the intended legal result.

The second is, that the act in question is illegal because forbidden by some rule of law.

The third is, that the act is a violation of the equitable right of the members of the corporation to have the property of the corporation applied exclusively to corporate purposes,

as those purposes are determined by the charter or fundamental law of the corporation.

The third objection clearly has no force where all the members of the corporation assent to or ratify the act in question. The first two objections, however, are equally valid, whether the corporate act is sanctioned by the unanimous vote of the members, or by a mere majority. It is these two objections, then, in so far as they bear upon corporate leases, that it is proposed to consider; leases having been selected for discussion because a lease is an instrument of so complex a character that it illustrates to the best advantage the present condition of the law of *ultra vires*.

A lease is, in the first place, a bilateral contract, imposing obligations on both lessor and lessee. In the second place, it is a conveyance by which a certain estate is conveyed by the lessor to the lessee. As the rules governing contracts differ in important particulars from those governing conveyances, *ultra vires* leases will be discussed first, as contracts, and second, as conveyances.

By hypothesis the lease is *ultra vires* or beyond the powers of the corporation. "It is obvious," says Mr. Morawetz,¹ "that the words *powers* and *vires* are here used in the sense of authority or right, and not in the sense of ability." If this were obvious to everybody, the objection that the corporation has no legal capacity to make the lease would be eliminated, and the discussion of our subject simplified. Unfortunately, the word *powers* may mean either ability or authority, and is therefore ambiguous. The poverty of the vocabulary of our jurisprudence has often been lamented. We have in many cases only one word to express two or more different ideas—a misfortune which is aggravated, rather than mitigated, by the fact that in other cases we have several words to express only one idea. The ambiguity thus arising has been one of the most fruitful sources of uncertainty and confusion in our textbooks and our judicial opinions. There may be some word in

¹ Corporations, § 648.

our legal vocabulary which, while capable of two meanings, is always used by lawyers in only one of those meanings. If there is such a word at the present day, only one thing can be said about it—the first lawyer who finds the other meaning more favorable to his client's case will use the word in that other meaning in his next argument. Inasmuch, then, as the word *powers* may be used in the sense of ability or capacity as well as in that of authority or right, we are not surprised to find that it has been so used. “To deny,” says Mr. Morawetz,¹ “that corporations are able to enter into contracts and do frequently enter into contracts and do acts in excess of their chartered powers, is to deny an unalterable and self-evident fact.” As opposed to this, we have the language of Mr. Justice Gray in *Central Transportation Co. vs. Pullman Co.*,² who says that a contract *ultra vires* is unlawful and void “because the corporation by the law of its creation is *incapable* of making it. The objection to the contract is not merely that the corporation ought not to have made it, but that it *could not* make it.” The question is, he continues, “whether the lease sued on is unlawful and *void for want of legal capacity* in the plaintiff to make it.”³ So also Lord Cairns, in *Ashbury Co. vs. Riche*:⁴ “The question is not as to the legality of the contract; the question is as to the competency and power of the company to make the contract.”⁵ Such language shows clearly that the question of the legal capacity of the corporation as affecting the validity of its *ultra vires* acts is not to be determined simply by saying that corporations do enter into contracts in excess of their chartered powers and that the sole objection to the validity of such contracts is their illegality. A married woman at common law could enter into a contract in one sense; she could sign, seal, and deliver a deed, but the deed was not her legal act, because she lacked legal capacity to contract. The

¹ Corporations, § 649.

² 139 U. S. 24 (1891).

³ *Ibid.* 59, 60.

⁴ L. R. 7 H. L. 653 (1875).

⁵ *Ibid.* 672.

corporation is a person by definition. Is the contractual capacity of this person general, like that of a natural person, or has the corporate person only partial or limited capacity? Chief Justice Marshall thought that the corporation derived all its powers from the act creating it, and was capable of exerting its faculties only in the manner which that act authorized.¹ The doctrine of special capacity has also found favor in some English cases.² A learned writer³ in the Encyclopedia of the Laws of England,⁴ speaking of the sphere of corporate powers defined by the charter says, "outside this sphere it is stricken with impotence." The language of Mr. Justice Gray previously quoted has often been cited with approval, as, for example, by the Supreme Court of Illinois in a very recent case⁵ which settled the law of that state in regard to *ultra vires* contracts. These citations show that the doctrine of special capacity is still entitled to respectful consideration. It is not, however, the prevailing view to-day, and in spite of the apparent authority in support of it, no dependence can be placed upon it. The objection to the doctrine is well stated by Sir Frederick Pollock⁶ as follows: "All rights are in one sense creatures of the law, and it is in a special sense by creation of the law that artificial persons exist at all. But when you have got your artificial person, why call in a second special creation to account for its rights?" The view now generally accepted, therefore, is that the contractual capacity of a corporation is as extensive as that of a natural person; that an act beyond the powers of a corporation is open to attack, not on the ground that it is impossible, but that it is illegal for the corporation to do the act.⁷ An *ultra vires* lease, therefore, may be regarded

¹ *Head vs. Providence Ins. Co.*, 2 Cranch 127, 169 (1804); *Bank of U. S. vs. Dandridge*, 12 Wheaton 64, 99 (1827).

² Pollock, *Contracts*, Appendix D.

³ Mr. E. Manson.

⁴ Vol. XII, p. 360.

⁵ *National Home Building Asso'n. vs. Bank*, 181 Ill. 35, 45 (1899).

⁶ *Contracts* (2nd Am. Ed.) 121.

⁷ *Ibid.*; Morawetz, *Corporations*, § 648; George Wharton Pepper, 9 *Harvard Law Review* 255.

simply as a corporate act which is illegal. Why is the act illegal, and what is the effect of the illegality?

The illegality of an *ultra vires* act may rest on one of three grounds:

First.—The act may be objectively illegal; that is, illegal for any person to do.

Second.—The corporation may be forbidden by statute to do the act.

Third.—*Ultra vires* acts may be illegal at common law, because regarded as injurious to the public welfare.

In the case of an *ultra vires* lease all three grounds of illegality may be present. If the corporation is under obligation to the public, as in the case of a railroad company, the alienation by lease or otherwise of property necessary to enable it to fulfill that obligation is clearly an illegal act. Again, if a statute forbids the lease, either expressly or by implication, it is unlawful. The English doctrine of the invalidity of *ultra vires* acts of companies rests upon the construction placed by the House of Lords, in *Ashbury Co. vs. Riche*¹, on the provisions of the Companies Act. The court, in construing that act, held that it prohibited the making of any contract not authorized by the memorandum of association. The American doctrine on this point is clearly stated by Mr. Justice Miller in *Thomas vs. Railroad Co.*:² “Conceding the rule applicable to all statutes, that what is fairly implied is as much granted as what is expressed, it remains that the charter of the corporation is the measure of its powers, and that the enumeration of these powers implies the exclusion of all others.”³

Apart from statute, however, is there any illegality in an *ultra vires* act? The ordinary answer to this question is in the affirmative. *Ultra vires* contracts are unlawful and void, it is said, on account of “the interest of the public that the corporation shall not transcend the powers conferred upon

¹ L. R. 7 H. L. 653 (1875).

² 101 U. S. 71 (1879).

³ *Ibid.* 82.

it by law."¹ This doctrine has been so often reiterated by courts of the highest authority that it may seem presumptuous to question it. There are strong grounds, however, which cannot be set forth at length in this paper, for believing that the illegality of *ultra vires* acts, in every case where the act is not objectively illegal, may be shown to rest upon an express or implied statutory prohibition of such acts.² There is no stronger argument in support of this view than the different construction placed by the United States Supreme Court upon different provisions of the National Banking Act. A national bank is prohibited from lending money on real estate security, but a mortgage taken to secure such loans is enforceable.³ The bank is prohibited from transacting any business except such as is incidental and preliminary to its organization, until authorized by the Comptroller of the Currency. A lease made in violation of this provision is illegal and void.⁴ The same court has held, moreover, that the effect of an *ultra vires* act is a matter of statutory construction, in regard to which the Federal courts are bound by the decisions of the Supreme Court of the state creating the corporation.⁵

On whatever grounds the illegality may rest, it is well settled that an *ultra vires* lease is illegal, and that no action can be brought upon the lease as a contract by either party.⁶ It

¹ *Central Transportation Co. vs. Pullman Co.*, 139 U. S. 24, 48 (1891); *McCormick vs. Market Bank*, 165 U. S. 538, 550 (1897); *De La Vergne Co. vs. German Savings Institution*, 175 U. S. 40, 59 (1899).

² *Riche vs. Ashbury Co.*, L. R. 9 Ex. 224, 264 (1874).

³ *National Bank vs. Matthews*, 98 U. S. 621 (1878).

⁴ *McCormick vs. Market Bank*, 165 U. S. 538 (1897).

⁵ *Sioux City R. Co. vs. North American Trust Co.*, 173 U. S. 99, 112 (1899).

⁶ *Thomas vs. Railroad Co.*, 101 U. S. 71 (1879); *Pennsylvania R. vs. St. Louis, etc. R.*, 118 U. S. 290 (1886); *Oregon Railway & Navigation Co. vs. Oregonian Railway Co.*, 130 U. S. 1 (1889); *Central Transportation Co. vs. Pullman Co.*, 139 U. S. 24 (1891); *McCormick vs. Market Bank*, 165 U. S. 538 (1897); *Brunswick Gaslight Co. vs. United Gas Co.*, 85 Me. 532 (1893). "It has been uniformly held that there could be no recovery on the lease itself." *Brown, J., in De La Vergne Co. vs. German Savings Inst.*, 175 U. S. 40, 59 (1899).

is immaterial in this connection whether it is the lessor or the lessee that lacks corporate power to make the lease;¹ although, if the lessee is a foreign corporation, the authorization of the lease by the legislature prevents either party from raising the question of its illegality.² In some jurisdictions, however, if the lessee has occupied the premises under the lease he is liable for the rent.³ This liability is said to rest upon estoppel. Such an application of the doctrine of estoppel has been often repudiated by the United States Supreme Court,⁴ and there is a tendency to abandon it in some of the states where it previously prevailed.⁵ An analysis of the nature of estoppel shows clearly that the doctrine can have no application to *ultra vires* acts. Estoppel is analogous to contract. In contract, responsibility springs from the promise acted upon by the promisee. In estoppel, responsibility springs from the representation of fact acted upon by the party claiming the estoppel. If we take the position that the invalidity of an *ultra vires* act is due to lack of corporate capacity, we are confronted with the principle that estoppel cannot effect contractual capacity as determined by personal status.⁶ One who cannot be bound by a contract, cannot be estopped from setting up the invalidity of that contract, as the cases of infants and married women show. On the other hand, if we regard an *ultra vires* act as illegal, we cannot escape the rule that there can be no estoppel against the law. If it is illegal for the corporation to do an *ultra vires* act, the act cannot be validated by the representa-

¹ *Pennsylvania R. Co. vs. St. Louis, etc. R.*, 118 U. S. 290 (1886); *St. Louis, etc., R. Co. vs. Terre Haute, etc. R. Co.* 145 U. S. 393 (1892).

² *Boston, Concord, etc. R. Co. vs. Boston & L. R. Co.*, 65 N. H. 393 (1888).

³ *Camden, etc. R. vs. May's Landing, etc. R.*, 48 N. J. 530 (1886); *Corpus Christi vs. Central Wharf Co.*, 8 Tex. Civ. App. 94; 27 S. W. 803 (1894); *Heims Brewing Co. vs. Flannery*, 137 Ill. 309 (1891); *Bath Gas Light Co. vs. Claffy*, 151 N. Y. 24 (1896).

⁴ *St. Louis, etc. R. vs. Terre Haute, etc. R.*, 145 U. S. 393 (1892); and cases *supra*, note 6 on page 6, *supra*.

⁵ *National Home Building Ass'n vs. Bank*, 181 Ill. 35 (1899).

⁶ *Bigelow, Estoppel*, (5th ed.) 604, 605.

tion of the corporation itself. Instead of relying on an erroneous application of the doctrine of estoppel, it would be far more satisfactory if the courts which object to what Mr. Thompson,¹ with unnecessary asperity, calls "the abominable doctrine of *ultra vires*," would simply say that the violation of the law by a corporation which exceeds its charter powers is an irrelevant issue except in a direct proceeding by the state against the corporation. Nevertheless, the supposed harshness of the rule making all *ultra vires* acts illegal has often induced courts to sustain the validity of such acts at the expense of strict logic. Such a result is an unsatisfactory compromise between the theory that *ultra vires* contracts are void for illegality, and the theory that the illegality of such contracts is irrelevant in actions between private persons. Any real hardship from the application of the strict rule of illegality may be obviated by holding the officers of the corporation personally liable for breach of warranty of their authority to bind the corporation, as they have recently been held liable by the Supreme Court of Illinois in a case² where an *ultra vires* lease had been held void.

The lease being void for illegality, what remedy has the lessor if the lessee refuses to perform the covenants of the lease? Since the lessor has no contractual rights, he is to recover, if at all, against the lessee, upon equitable grounds; either on an implied assumpsit at law, or by filing a bill in equity for an accounting, as the case may be. There is a broad principle of equity, sometimes called the doctrine of unjust enrichment, that where one obtains property from another under a supposed contract, he cannot repudiate the contract and at the same time keep the property without paying anything for it. This quasi-contractual obligation on the part of the lessee to pay for what he has received under the lease, which in 1885 Mr. Justice Miller³ said admitted of doubt, is now definitely established by

¹ Corporations, vol. 7, § 8314 (1899).

² Seeberger vs. McCormick, 178 Ill. 404 (1899).

³ Pennsylvania Co. vs. St. Louis, etc. R., 118 U. S. 318 (1898).

the decision of the United States Supreme Court in the case of *Pullman Co. vs. Central Transportation Co.*,¹ rendered in 1898. There is only one possible objection to recovery by the lessor for the use and occupation of the property on quasi-contractual grounds, an objection which has been pointed out by Mr. Pepper.²

It is this:—That an *ultra vires* contract is illegal, and that the maxim, *in pari delicto potior est conditio defendentis*, must prevent a recovery, even for the benefits actually conferred. The effect of this maxim and the inconsistency displayed in its application are hereafter considered. Hitherto, only one court which has treated an *ultra vires* lease as illegal seems to have refused the lessor recovery on quasi-contractual grounds, merely on account of the illegality. The Supreme Court of Ohio in one case,³ it is true, held that there could be no recovery for the value of goods delivered under an *ultra vires* contract, but that was on the ground merely that the delivery was voluntary, with full knowledge of the facts. The Supreme Court of New York,⁴ however, in 1872, held that the maxim *in pari delicto* prevented a recovery by the lessor for use and occupation under an *ultra vires* lease. Such an application of the maxim is not without support in other cases of quasi-contractual actions;⁵ but the maxim is an arbitrary one, and the rule allowing a recovery on equitable grounds for benefits received under an *ultra vires* lease has the weight of reason, as well as of authority, in its favor.⁶

The very great importance of the difference between allowing recovery on the contract, and allowing recovery on the

¹ 171 U. S. 138 (1898)

² 2 American Law Register, N. S. 296 (1895).

³ *Railway Co. vs. Iron Co.*, 46 Ohio St. 44 (1888).

⁴ *Union Bridge Co. vs. Troy, etc., R.*, 7 Lans. 240 (1872).

⁵ *Peck vs. Burr*, 10 N. Y. 294 (1851).

⁶ *Farmers' Loan & Trust Co. vs. St. Joseph, etc. R.*, 2 Fed. Rep. 117 (1880); *Greenville Compress Co. vs. Planters' Compress Co.*, 70 Miss. 669 (1893); *Nashua, etc. R. vs. Boston, etc. R.*, 164 Mass. 222 (1895); *Manchester, etc. R. vs. Concord R.*, 66 N. H. 100 (1890).

theory of quasi-contract, is shown by the case of Pullman Co. *vs.* Central Transportation Co., already cited. The Central Co. had leased to the Pullman Co. for ninety-nine years its entire plant and personal property, together with its contracts and patents. For fifteen years the lessee carried out the terms of the lease. After that time the lessee refused to pay the rent, and set up that the lease was *ultra vires* on the part of the lessor. In an action brought to recover the rent, the defence of *ultra vires* was sustained, and the lease declared illegal and void. The lessee then filed a bill to enjoin the bringing of suits for the collection of rents, and the lessor filed a cross-bill for an accounting of what the lessee had received under the lease. The Supreme Court sustained the lessor's cross-bill in an opinion which shows clearly the grounds on which the lessor is allowed to recover. The lease in that case was of personalty which had substantially disappeared in use. The Supreme Court allowed the lessor to recover the value of the cars, etc., transferred under the lease, at the time of the repudiation of the lease by the lessee, together with the cash received under the lease by the lessee, and interest thereon from the time of the repudiation of the lease. No recovery was allowed for the contracts or patents, because they had expired by lapse of time before the repudiation of the lease; nor for the use of the property transferred, or the earnings of such property in the hands of the lessee, because the rent paid prior to the repudiation of the lease was treated as full compensation for the use of the property under the lease. As millions were involved in this case, the decision as to the measure of recovery is of particular importance. The rule clearly established by the case is, that if the lease is of personalty, the lessor's right to recovery is limited to the value of the property transferred under the lease remaining in the hands of the lessee at the time the lease is repudiated; to which interest from that date must be added. The case does not decide what is the measure of recovery where the lease is of real estate. From the principles laid down in the opinion, however, and supported by other authorities, it

seems that the lessor should recover from the lessee the value of the use and occupation of the land from the time of the repudiation of the lease.

It is commonly said that an *ultra vires* lease is void. That the lease is void as a contract, we have already seen. Is it also void as a conveyance? This question cannot be satisfactorily answered in the present state of the law. There are many decisions, but they cannot be harmonized. Two general principles governing *ultra vires* conveyances are fairly well established. One is that a conveyance of property is not subject to attack on the ground that the contract leading to the conveyance or contained in it is illegal.¹ This rule has often been applied to corporation cases in decisions holding that the right of the corporation to make or accept a conveyance under its charter is not a question which can affect the title to the property.² The act of the corporation in making or accepting the conveyance in violation of its charter simply subjects its charter to forfeiture. The second rule involves a limitation of the first. It is that in case property conveyed is subject to a public use, like a railroad, the conveyance is void on account of the injury to the public, unless the conveyance is sanctioned by the state.³

On principle, therefore, one might say that a corporate lease is valid as a conveyance, although *ultra vires*; unless the lease is of a railroad or other property burdened with any duties to the public, when it is void. The authorities, however, do not permit of such clear generalizations. We must inquire in

¹ *Brooks vs. Martin*, 2 Wall. 70 (1863); *Planters' Bank vs. Union Bank*, 16 Wall. 483 (1872).

² *Cowell vs. Springs Co.*, 100 U. S. 55 (1879); *Jones vs. Habersham*, 107 U. S. 174, 188 (1882); *Fritts vs. Palmer*, 132 U. S. 282 (1889).

³ *Thomas vs. Railroad Co.*, 101 U. S. 83, Miller, J.; *Branch vs. Jesup*, 106 U. S. 478, Bradley, J.; *Pennsylvania R. vs. St. Louis, etc. R.*, 118 U. S. 290, Miller, J.; *Central Transportation Co. vs. Pullman Co.*, 139 U. S. 24, Gray, J.; *Oregon R. vs. Oregonian R.*, 130 U. S. 1, 23, Miller, J.; *Snell vs. Chicago*, 152 U. S. 199, Brewer, J.; *Brunswick Gaslight Co. vs. United Gas Co.*, 85 Me. 532.

every case whether any legal effect has been given to the lease by the courts.

The first question that naturally arises, assuming the lease to be void, is, how can the lessor regain possession of the property demised after the lessee has entered thereon? If the lease is void the lessor's rights are in no way affected by it. Therefore, the lessor still has both right of property and right of possession. It would seem, therefore, that the lessor might regain possession of the property by the simple process of re-entry. This was the position taken by the lessor in the case of the American Union Telegraph Co. *vs.* Union Pacific Railroad Co.¹ In that case the lessor, a railroad company, had made an *ultra vires* lease of its telegraph lines to the telegraph company, for which it received value. Fourteen years afterward the lessor undertook to rescind the lease on its own motion and to resume possession and control of the property, on the theory that the lease was void. The Circuit Court, McCrary, J., enjoined this action of the lessor. The court admitted the right of the lessor to rescind the lease, but said: "The right of rescission does not justify the Railroad Company in taking possession except by lawful means. A party who is in actual possession of the property claiming under color of title, is not to be ousted except by means provided by law, and such possession the court will protect by injunction from disturbance by any other means." The lessor was given leave to file a cross-bill tendering a return of the consideration and praying for a cancellation of the lease. In other cases² involving the same questions, the lessor was enjoined from interfering with the lessee, because the latter had expended money on the property, so that the court regarded the lessor and the lessee as joint owners. These cases support the view that an *ultra vires* lease of property burdened with public duties is not absolutely void

¹ 1 McCrary 188 (1880).

² Western Union Tel. Co. *vs.* Union Pacific R., 1 McCrary 558 (1880); Western Union Tel. Co. *vs.* Burlington, etc. R., 3 McCrary 130 (1882). See also 1 McCrary 581.

because *ultra vires*, but gives the lessee who enters under it a right of possession which can only be taken away by proper legal proceedings. On the other hand, where the lessor had taken possession of the property, and had filed a bill for the rescission of the lease, Foster, J.,¹ refused to dissolve an injunction which the lessor had obtained against the lessee's interference with the property. To reconcile the decision of Judge Foster with that of Judge McCrary is a difficult task.

Again, in a Tennessee case, *Mallory vs. The Hanaur Oil Works*,² decided in 1888, there was an *ultra vires* contract by which four corporations turned over to certain trustees for three years all their property. One of the corporations subsequently repudiated the agreement and brought an action of unlawful detainer. The court held the agreement to be *ultra vires* and restored the property to the plaintiff. On general principles it would seem that if an action of unlawful detainer can be sustained by the lessor, a right of re-entry, at least by peaceable means, is to be implied. It is to be noted that in the Tennessee case the lease was made by an ordinary business corporation, so that, on principle, one might expect it to be upheld; while in the case of the Telegraph Co. above cited, the lease was a conveyance of property burdened with public duties, which, on principle, might be regarded as absolutely void.

Although the courts are likely to deny to the lessor the right to recover property demised by its own act, the statement has often been made, as in the case of the Telegraph Co., above cited, that the courts will restore to the lessor the property demised by an *ultra vires* lease. As in the case of the Telegraph Co., the lessor was given leave to file a cross-bill tendering a return of the consideration and praying for a cancellation of the lease, so in the case of the Memphis and Charleston Railroad Co. *vs.* Grayson,³ decided by the Supreme Court of Alabama in 1890, the right of the lessor to file a bill for the

¹ *Central Branch U. P. R. vs. Western Union Tel. Co.*, 1 McCrary 551 (1880).

² 86 Tenn. 598.

³ 88 Ala. 570.

cancellation of the lease was distinctly upheld. Even Mr. Justice Gray, who has since taken the strongest ground against relieving the lessor from an *ultra vires* lease, said in 1890, in the case of the Central Transportation Co. *vs.* Pullman Co. : “ The courts, while refusing to maintain any action upon the unlawful contract, have always striven to do justice between the parties, so far as could be done consistently with adherence to law, by permitting *property or money*, parted with on the faith of the unlawful contract, *to be recovered back.*”¹ Other language by eminent judges might be quoted in support of this view. Mr. Justice Miller said in 1886 : “ The courts have gone a long way to enable parties who had parted with property or money on the faith of such contracts, to obtain justice by recovery of the property or the money specifically.”² So in the case of Pullman Co. *vs.* Central Transportation Co., Mr. Justice Peckham, speaking of the liability of the lessee for property received under an *ultra vires* lease, said that such “ liability is based only upon an implied promise to *return* or make compensation therefor. This implication of a promise would not arise until *one or the other party* chose to terminate the lease.”³ In the case of *ultra vires* leases of railroad companies and other similar corporations, there is high authority for saying that there is not only a right on the part of the lessor to claim rescission of the lease, but a positive duty. In the well-known case of Thomas *vs.* Railroad Co.,⁴ decided by the United States Supreme Court in the October term, 1879, a railroad company had made an *ultra vires* lease of its road to another company. The lessor resumed possession of the property before the expiration of the lease, and the lessee brought an action for damages on account of the refusal of the lessor to arbitrate as to the value of the unexpired term of the lease. The lease contained a provision for arbitration in case

¹ 139 U. S. 24, 60.

² Salt Lake City *vs.* Hollister, 118 U. S. 263.

³ 171 U. S. 138, 159 (1898).

⁴ 101 U. S. 71.

of resumption of possession by the lessor. The Supreme Court of the United States, in an opinion by Mr. Justice Miller, held that the contract sued upon was forbidden by public policy. "Having entered into the agreement," says Justice Miller, "it is the duty of the company to rescind or abandon it at the earliest moment. This duty was independent of the clause in the contract which gave them the right to do it." This statement of Mr. Justice Miller's was *obiter dictum*, but has often been cited with approval.

The positive language used in this case was reiterated by the same judge in 1886 in the case of the Pennsylvania Co. *vs.* St. Louis, etc. Railroad Co.¹ Mr. Justice Miller's opinion on this point has often been quoted,² and seems to have been generally accepted as a correct statement of the law; and in the latest book on corporations, the seventh volume of Mr. Thompson's Commentaries,³ published in 1899, the continuing duty of rescission by the lessor, in the case of an *ultra vires* lease by a so-called public corporation, is emphatically set forth. The reason for this doctrine is obvious. If the lease is void because it is injurious to the public interest, then the public interest is best promoted by a rescission of the lease; which the lessor ought to seek, and which the courts, of course, ought to grant. This apparently reasonable doctrine, however, has been rejected by the Supreme Court of the United States. In the case of the St. Louis, etc. Railroad Co. *vs.* Terre Haute, etc. Railroad Co.,⁴ decided in 1892, the plaintiff had leased its railroad to the defendant for nine hundred and ninety-nine years. The lessee had been in possession, paying the stipulated rent for seventeen years without taking any steps to rescind the lease, when the lessor filed a bill for the cancellation of the lease and the restoration of the property, on the ground that the lease was illegal and that

¹ 118 U. S. 290, 317.

² As in *New Castle Northern R. vs. Simpson*, 21 Fed. Rep. 533 (1884).

³ § 8331.

145 U. S. 393.

the parties were *in pari delicto*. The reasoning of Mr. Justice Miller proved insufficient to overcome the force of the maxim, *in pari delicto potior est conditio defendentis*. Now, whatever may be the value of legal maxims, they cannot be accepted as the safest premises from which to draw conclusions. A legal maxim is always a generalization and is usually expressed in a more or less attractive form. Unfortunately, our law is made up of particular cases from which generalizations can only be drawn with the greatest care. The more glittering the generalization, therefore, the greater the probability of its inaccuracy. Wise saws are good companions, but poor substitutes for modern instances. Of all the legal maxims which have confused instead of simplifying the law, there is none more troublesome than this old saw, *in pari delicto potior est conditio defendentis*. The general meaning of the maxim is clear. Not only will a court refuse to enforce an illegal contract, but it will also take into account the illegal conduct of the parties when either appeals for any relief in connection with the illegal transaction, and if it sees fit, will leave the parties where it finds them. In many cases, of course, this is sound public policy, but we have never been able to reach any satisfactory and consistent conclusions as to the extent to which this maxim should be applied. There is one qualification in the maxim itself—it does not apply unless the parties are *in pari delicto*. Therefore, if one party is induced by the fraud or duress of the other to enter into an illegal contract, his case is not affected by the maxim.¹ In a New Hampshire case, decided in 1890, *Manchester, etc. Co. vs. Concord Railroad Co.*,² the court held that a railroad company which had leased its road to another was not *in pari delicto* with the lessee company. In the case of the *St. Louis Railroad vs. Terre Haute Railroad*, the United States Supreme Court held that the lessor and the lessee companies were *in pari delicto*. It is difficult to understand the reasoning of the New Hamp-

¹ *Ibid.* 407.

² 66 N. H. 100.

shire court in this regard, or to see how there can be any legal difference in the iniquity of the lessor and the lessee companies. Certainly the United States Supreme Court has shown no disposition to weigh the respective demerits of the parties to an *ultra vires* railway lease.

Another limitation upon the maxim, *in pari delicto*, has been suggested by Mr. Keener,¹ who says that "if the illegality is *malum prohibitum* merely, the plaintiff can, so long as the contract remains executory, disaffirm the contract and recover the money paid or property delivered thereunder." This exception is also upheld by Mr. Pepper.² The exception, however, is of uncertain authority and of more uncertain application. According to Sir William Anson,³ the law cannot be said to be satisfactorily settled on this point. He and Mr. Leake⁴ agree that where the illegal contract has been partly performed, the maxim *in pari delicto* applies, and there is American authority to the same effect.⁵ Mr. Keener and Mr. Pepper, however, appear to take the opposite view. The whole trouble, both in regard to the maxim and in regard to the exception, springs from one source. In considering the question of illegality as affecting the rights of the parties to a given case, the object of the court is to protect the public interest. Its inquiry, therefore, ought to be, what method of dealing with the present situation will best tend to prevent the injurious results to the public which are supposed to flow from every illegal transaction. In many cases, if the court were to grant rescission of the transaction, it would interpose the most effective barrier against the consequences of the illegal act. There is excellent authority for saying that the decisions of the courts in reference to such illegal transactions, where the question does not arise on the illegal contract itself, should be deter-

¹ Quasi-Contracts, 259.

² 9 Harvard Law Rev. 257; 2 American Law Reg. (N. S.) 296.

³ Contracts (8th ed.) 217.

⁴ Digest of Contracts, 673.

⁵ Singer Mfg. Co. vs. Draper, 52 S. W. 879, Tenn. (1899).

mined by the practical consequences of the decision.¹ Mr. Justice Story,² in discussing the maxim *in pari delicto*, says: "But in cases where the agreements or other transactions are repudiated on account of their being against public policy, the circumstance that the relief is asked by a party who is *particeps criminis* is not in equity material. The reason is that the public interest requires that relief should be given, and it is given to the public through the party." This reasoning of Mr. Justice Story was deemed conclusive by the Supreme Court of New York,³ and is not answered by the opinion in *St. Louis Railroad vs. Terre Haute Railroad*.⁴ A Texas court, in following that opinion, answers Story's statement of the law by saying: "Where the plaintiffs' conduct should preclude them from attacking such a transaction for their private advantage, they should not be allowed to represent the public interests which they have sacrificed, and to determine for themselves when and how they should be set up. Here the illegal thing consists in the parting with the control of the road."⁵ This answer is unsatisfactory. The illegality of the lessor's conduct consists not merely in parting with the control of the road, but in its continual refusal to perform its duties to the public, and the attempt of the lessor to resume the performance of its duties is one which the courts would naturally be expected to encourage. The fact is, altogether too much importance has been attached to the arbitrary maxim *in pari delicto*. The courts, in striving to avoid the consequences of that maxim by making exceptions thereto, often avoid the Scylla of injustice only to wreck their legal theories on the Charybdis of inconsistency. The trouble is, that in attempting to protect the public interest, the courts have attempted to draw distinctions

¹ *Block vs. Darling*, 140 U. S. 234 (1891); *New Castle Northern R. vs. Simpson*, 21 Fed. Rep. 533, 537 (1884); *Tate vs. Commercial B'd'g Asso'n*, 33 S. E. 382 (1899) Va.; Story, *Equity Jur.* § 298.

² *Equity Jur.* § 298.

³ *Union Bridge Co. vs. Troy, etc. R.*, 7 Lans. 240 (1872).

⁴ 145 U. S. 393.

⁵ *Olcott vs. International, etc. R.*, 28 S. W. 728 (1894) Tex. Civ. App.

with reference to the previous conduct of the parties, instead of with reference to the probable or natural effect of the decree asked for upon the public welfare, and such distinctions have proved impossible of satisfactory or consistent application. The more extensive the comparison of the cases in which the maxim *in pari delicto* has been applied,¹ the clearer becomes the impossibility, in this country at least, of reaching any satisfactory general conclusions from the maxim. Thus, it is generally understood that in a case where the maxim *in pari delicto* applies, there can be no recovery for benefits conferred, on the theory of an implied contract.² In the case of an *ultra vires* lease, the maxim *in pari delicto*, according to the decisions of the United States Supreme Court, will prevent a decree of rescission, even of the executory portion of the lease, so long as the lessee does not violate the provisions of the lease; but the maxim does not prevent a recovery on quasi-contractual grounds for the use and occupation of the premises under the lease—an inconsistency which was pointed out some years ago by Mr. Pepper.³ It is a poor maxim, however, that does not work both ways; and this same maxim led the Supreme Court of New York⁴ to exactly the opposite conclusion, namely, that the court ought to rescind the lease upon the application of the lessor, but that it ought to award the lessor no compensation for the use and occupation of its property. Both these opposite conclusions are entitled to respect; but they do not increase one's respect for the arbitrary maxim on which both are founded; and they show clearly the necessity of some restatement of the law as to the effect of the illegality of a contract on other legal relations of the parties to that contract.

¹ Cf. *Brooks vs. Martin*, 2 Wall. 70; *Planters' Bank vs. Union Bank*, 16 Wall. 483; *Block vs. Darling*, 140 U. S. 234; *Spring Co. vs. Knowlton*, 103 U. S. 49; *Herman vs. Jeuchner*, 15 Q. B. D. 561; *Re Great Berlin Stbt. Co.*, 26 C. D. 616; *Kearley vs. Thompson*, 24 Q. B. D. 742; *Kirkpatrick vs. Clark*, 132 Ill. 342; *St. Louis, etc. R. vs. Terre Haute, etc. R.*, 145 U. S. 393; *Union Bridge Co. vs. Troy, etc. R.*, 7 Lans. 240.

² 2 American Law Register (N. S.) 306.

³ *Ibid.* 296.

⁴ *Union Bridge Co. vs. Troy, etc. R.*, 7 Lans. 240 (1872).

The maxim, *in pari delicto*, is not in any case a bar to the equitable rescission of the lease as against stockholders in the lessor corporation who have not assented to or ratified the lease. Any *ultra vires* act of the corporation is an infringement of the equitable rights of the non-assenting stockholders. A corporation may sue to rescind such act, as the representative of the injured stockholders,¹ and if it refuses to sue, such stockholders may file a stockholders' bill for rescission,² making the corporation a party defendant. If, however, the rights of the dissenting stockholders are barred by laches or any other defence, neither they nor the corporation can file a bill for rescission;³ unless the corporation itself is given that right on grounds of public policy.⁴ The maxim *in pari delicto* does not, it seems, prevent rescission of the contract in any case where the corporation sues in a representative capacity, as in the case of the trustees of a charitable fund,⁵ or in the case of a municipal corporation.⁶

If a court will not entertain a bill in equity for the rescission of an *ultra vires* lease, it is probable that it will also refuse to entertain an action at law for the recovery of the property. This does not necessarily follow, however. The maxim *in pari delicto* operates as a bar to the plaintiff's recovery, it is commonly said, only where the plaintiff is compelled to establish his case by proving that he himself has acted illegally. In the case of a bill in equity to rescind an *ultra vires* lease, the illegality must appear in the bill itself. If, however, the lessor brings an action of ejectment, or of forcible entry, against the lessee, it seems unnecessary for the plaintiff to offer the lease in evi-

¹ Great Northwestern Central R. *vs.* Charlebois, 1899 A. C. 114 (P. C.); Olcott *vs.* International, etc. R., 28 S. W. 728 (1894) Tex. Civ. App.

² Board of Commissioners *vs.* Lafayette, etc. R., 50 Ind. 85 (1875).

³ St. Louis, etc. R. *vs.* Terre Haute, etc. R., 145 U. S. 393 (1892); Boston, Concord, etc. R. *vs.* Boston & Lowell R., 65 N. H. 393 (1888); Olcott *vs.* International, etc. R., 28 S. W. 728 (1894) Tex. Civ. App.

⁴ Memphis, etc. R. *vs.* Grayson, 88 Ala. 570 (1890).

⁵ Auburn Academy *vs.* Strong, Hopk. Ch. 278 (1824).

⁶ Detroit *vs.* Detroit City R., 56 Fed. Rep. 868, 892 (1893).

dence. The plaintiff is not seeking to recover on the lease, but on the ground of ownership of the property to which the lessee has no title or right of possession. If, then, the plaintiff establishes his ownership and the defendant's ouster, the plaintiff has made a *prima facie* case. If the *ultra vires* lease is treated as a valid conveyance, it is, of course, a sufficient defence to the lessee; but if the lease be held void as a conveyance, the only ground on which it is admissible as evidence for defendant, is that public policy requires the admission of the lease in order to prevent the wicked plaintiff from obtaining any assistance from the courts. Unless the lease should be unnecessarily introduced in evidence by the plaintiff, the plaintiff's case does not rest upon the illegal lease, and he might perhaps recover in spite of the maxim *in pari delicto*. Recovery in an action at law for unlawful detainer has been allowed the lessor in Tennessee.¹ A Texas court, however, has held that the lessee may set up the illegality of the lease as a defence, even though the lessor is able to make a *prima facie* case without showing any illegality in the transaction.² Mr. Justice Gray, in *St. Louis Railroad vs. Terre Haute Railroad*;³ said that where the lessee does not repudiate the lease, the case is one in which "the court will not disturb the possession of the property that has passed under the contract, but will refuse to interfere as the matter stands."⁴ On the other hand, in the later case of *Pullman Co. vs. Transportation Co.*,⁵ Mr. Justice Peckham said that "the use of the property is lawful as between the parties so long as the lease was not repudiated by either,"⁶ implying that the lessor as well as the lessee had a right to repudiate the lease. All that the case of *St. Louis Railroad vs. Terre Haute Railroad* decides is, that a court of equity will not grant relief to the lessor so long as the lessee does not repudiate the lease.

¹ *Mallory vs. Hanaur Oil Works*, 86 Tenn. 598 (1888).

² *Olcott vs. International, etc. R.*, 28 S. W. 728 (1894) Tex. Civ. App.

³ 145 U. S. 393.

⁴ *Ibid.* 409.

⁵ 171 U. S. 138.

⁶ *Ibid.* 160.

The right of the lessor to repudiate the lease and assert his original rights in a court of law has not yet been determined by the Supreme Court of the United States; although Mr. Justice Gray's opinion is opposed to the recognition of such a right. Whether the lessor can rescind the lease or not, it seems that in *quo warranto* proceedings by the state, the lease may be declared void;¹ and the making of the lease has been held an offence so grave as to warrant the forfeiture of the corporate charter.²

What has been said previously with reference to the recovery of the demised property by the lessor, refers only to the case where the lessor seeks to repudiate the lease. We have now to consider the result where the lease is terminated by lapse of time or by breach of condition. It is probable that the lessor has the same right to recover the property upon the termination of an *ultra vires* lease, or upon a breach of condition of such lease by the lessee, that it would have if the lease were valid. In a case in the Supreme Court of Washington, Hall, etc., Co. *vs.* Wilber,³ decided in 1892, the lessor brought an action for unlawful detainer against the lessee, who had refused to pay his rent. The complaint set out the lease, and lack of corporate power in the lessor to make the lease was held to be no defence to the action. The Supreme Court of the United States in the case of St. Louis Railroad *vs.* Terre Haute Railroad,⁴ clearly intimated that the recovery of the property, which was refused the lessor in that case, would be allowed, if the lessee repudiated the lease. So, in the case of Pullman Co. *vs.* Transportation Co.,⁵ Mr. Justice Peckham's statement that the use of the property was lawful as between the parties so long as the lease was not repudiated by either, implies that upon breach of condition by the lessee such use would become unlawful. On the other hand, there is a case decided by the Circuit

¹ State *vs.* Atchison, etc. R., 24 Neb. 143 (1888).

² Eel River R. *vs.* State, 57 N. E. 388 (1900) Ind.

³ 4 Wash. 644.

⁴ 145 U. S. 393.

⁵ 171 U. S. 138.

Court of Appeals for the sixth circuit,¹ involving an application of the maxim, *in pari delicto*, which it is difficult to reconcile with any of the other cases. In that case, the Merz Capsule Company had entered into an *ultra vires* contract. In pursuance of this contract, this company conveyed its property to the United States Capsule Company, taking back a lease of the premises for a few weeks. After the expiration of the lease the lessee continued in possession, and refused to surrender possession to the lessor, at the same time tendering back what it had received from the lessor, and demanding complete rescission. The lessor thereupon entered upon the premises and undertook to remove the machinery, and the lessee filed a bill praying that the *ultra vires* contracts and conveyances should be cancelled, and the lessor enjoined from interfering with the lessee's possession. The lessor filed a cross-bill, setting up the instruments in question as legal instruments, and praying for specific performance of the agreements therein contained. The cross-bill was dismissed and a decree entered under the original bill, quieting title in the lessee, and enjoining the lessor from the commission of trespass. This decree was affirmed by the Circuit Court of Appeals. The court quoted the language of Mr. Justice Gray, in *St. Louis Railroad vs. Terre Haute Railroad*: "If the contract is illegal, affirmative relief against it will not be granted at law or in equity unless the contract remains executory." The court went on to say: "The contract in the case at bar between parties *in pari delicto* is in a large degree still executory." Now, in the case of *St. Louis Railroad vs. Terre Haute Railroad*, only seventeen years of the nine hundred and ninety-nine year lease had elapsed, yet the Supreme Court refused the lessor rescission as to the remaining part of the term. In the case of *McCutcheon vs. Capsule Co.*, the complainant had in the first place executed a deed to the defendant, which, according to the decisions of the Supreme Court, transferred the title to the

McCutcheon vs. Merz Capsule Co., 37 U. S. App. 586 (1896).

145 U. S. 393.

property to the defendant, and had also taken back a lease from the defendant, which had expired. Yet after all this had been done, the court held that the transaction was so far *executory* as to entitle the complainant to relief, in spite of the maxim *in pari delicto*.

A few points with reference to the effect of an *ultra vires* lease upon the rights of third parties remain to be mentioned. One rule well established is, that the lease cannot relieve the lessor corporation of any duties imposed upon it by law; so that a railroad company, leasing its road without legislative sanction, remains responsible for the proper operation of the road.¹ Another rule is that the invalidity of the lease does not affect any obligation assumed by the lessee, as carrier, warehousemen, or other bailee.² Another possible collateral effect of the doctrine of *ultra vires* is shown in the case of *Great Northern Railroad vs. Eastern Counties Railroad*.³ The plaintiff in that case had an agreement with the defendant by which the defendant allowed the use of its lines to connect plaintiff's lines with those of a third railroad, which had been practically leased by the plaintiff under an *ultra vires* agreement. The plaintiff sought an injunction to prevent the defendant from interfering with the free passage of the plaintiff over the defendant's lines to the leased railroad. The court refused the injunction on grounds of public policy.

The results of the foregoing examination of the authorities may be summed up as follows:

1. The lease as a contract is void, and no action can be brought upon it; except in those jurisdictions where the defence of *ultra vires* is excluded in actions on contracts fully or partially executed, on the alleged ground of estoppel.

2. The lessor is entitled to compensation for the use of its property under the lease, the amount of such compensation being determined by equitable principles.

¹ *Railroad Co. vs. Brown*, 17 Wall. 445, 450 (1873); 7 Am. & Eng. Encyc. of Law (2d ed.) 747.

² *McCluer vs. Manchester, etc. R.*, 13 Gray 124 (1859).

³ 9 Hare 306 (1851).

3. An *ultra vires* lease by an ordinary business corporation, to which all the stockholders assent, may be upheld on general principles as a valid conveyance of the property; but the law is uncertain.

4. An *ultra vires* lease of a railroad, or other property burdened with duties to the public, on principle might be regarded as void. So far as the obligations of the lessor to the public are concerned, the lessor is relieved of no obligation by the lease; but as between the lessor and the lessee, the relative rights of the parties cannot at present be clearly defined, on account of the uncertainty as to the application of the maxim *in pari delicto*, and of the greater uncertainty whither the courts will be carried by public policy—once called an unruly horse, but at the present day displaying the even more unruly disposition of an automobile. It seems, however, that the lessor may not forcibly dispossess the lessee; and it is uncertain, in the Federal courts, at least, whether the lessor has any remedy for the recovery of the property, so long as the lessee observes the conditions of the lease.

5. If there is a breach of condition of the lease, as in the case of repudiation by the lessee, the lessor seems to have the same right to recover the property that it would have in the case of a breach of condition in a valid lease.

There are two theories with reference to the nature of law, each upheld by able advocates. One is that the law is a collection of principles which are illustrated by the decisions of the courts. The other is that law is a natural science; and that its principles are to be ascertained by studying the actions of courts, as the principles of physiology are ascertained by studying the action of living organisms. Whether one regards judicial decisions as the foundation of legal principles, or as mere illustrations of those principles, it must be conceded that the law of corporations at the present time suffers from an embarrassment of riches. We have more "principles" and more decisions than we can harmonize into a system of corporation law. The conflict of opinion and of authority on

one question only has been shown in this paper. That conflict will necessarily continue during the formative period of corporation law, until, by the survival of the fittest, harmony of theories and decisions is obtained, and the law of corporations, following the example of the law of real property, becomes crystallized into a system of fixed rules, alterable only by legislation.

A HUNDRED YEARS OF AMERICAN DIPLOMACY.

BY

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Somewhat less than a century and a quarter ago the representatives of the United States of America, assembled in General Congress at the city of Philadelphia, declared that the thirteen United Colonies possessed, as free and independent States, "full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which Independent States may of right do." The period that has since elapsed, measured by the general duration of national life, is comparatively brief; but its importance is not to be estimated by length of years. The United States came into being, as an independent nation, on the eve of great mutations in the world's political and moral order. The principles on which the government was founded were indeed not new; they had been proclaimed by philosophers in other times and in other lands; but they found here a congenial and unpre-occupied soil and an opportunity to grow. The theories of philosophers became in America the practice of statesmen. The rights of man became the rights of men. But the new nation, though conceived in liberty and dedicated to freedom, was practical in its aims and judicious in its methods. It also recognized the right to life, liberty and the pursuit of happiness as belonging to men not only as individuals, but also in their aggregate political capacity as independent nations. Adopting therefore as its rule non-intervention, it declined the proposal of the revolutionary government in France, in 1793, for "a national agreement, in which two great peoples shall suspend their commercial and political interests, and establish a mutual understanding to defend the empire of liberty,

wherever it can be embraced."¹ Abstaining from active political propagandism, and acknowledging the right of other nations to work out their destiny in their own way, but confident of the beneficence and ultimate triumph of its own principles, it escaped the turmoils as well as the reactions that come of excessive and unregulated zeal, and, by the example of order and prosperity at home and the pursuit of an enlightened and consistent policy abroad, continued to uphold the cause of free government, free commerce and free seas. And it is in the maintenance of this great cause, in its various phases, that the United States has made its distinctive contribution to diplomacy.

Although we are particularly concerned on the present occasion with the achievements of the century now drawing to a close, it will be necessary, in order to avoid an abrupt and misleading breach in the actual continuity of events, to recur at times to the acts of the great men who endowed our government with its original form and purpose. At the very outset they looked abroad with a view to enter into relations with other governments. Four months before the Declaration of Independence, an agent was sent to France by the Continental Congress with suitable instructions, perhaps not the least onerous of which was the injunction to acquire "Parisian French."² Six months later the Congress adopted a plan of a treaty.³ Comprehensive in scope and far-reaching in its aims, this remarkable state paper stands as a monument to the broad and sagacious views of the men who framed it and gave it their sanction. Many of its provisions have found their way, often in identical terms, into the subsequent treaties of the United States; while, in its proposals for the abolition of

¹ Am. State Papers, For. Rel. I. 708.

² The agent was Silas Deane. His instructions, bearing date March 3, 1776, were signed by B. Franklin, Benj. Harrison, John Dickinson, Robert Morris and John Jay, of the Committee of Secret Correspondence. The objects of his mission were to obtain military supplies and to prepare the way, in case independence should be declared, for the conclusion of a treaty. (Dip. Cor. Am. Rev., Wharton's edition, II. 78.)

³ Secret Journals of Congress, II. 6, 7-25.

discriminating duties that favored the native in matters of commerce and navigation, it levelled a blow at the exclusive system then prevailing, and anticipated by forty years the first successful effort to incorporate into a treaty the principle of equality and freedom, on which those proposals were based.¹

Prior to 1789, the United States entered into fourteen treaties. Six of the fourteen were with France, but a majority of all were negotiated and signed in that country, at Paris or at Versailles. Eight were subscribed, on the part of the United States, by two or more plenipotentiaries; and among their names we find, either alone or in association, that of Franklin, ten times; the name of Adams, seven times; the name of Jefferson, three times; and that of Jay, who shared with Adams and Franklin the burden of the peace negotiations with Great Britain, twice. These early treaties covered a wide range of subjects, embracing not only war and peace, but also political alliance, pecuniary loans, commercial intercourse, and the rights of consuls.² Among their various stipulations, we may find provisions for liberty of conscience,³ for the abolition of the *droit d'aubaine* and *droit détraction*, and for the removal, generally, of the disability of the alien to dispose of

¹ See Notes upon the Foreign Treaties of the United States, by J. C. Bancroft Davis, Treaty Volume, 1776-1887, pp 1219-1220; and the treaty of commerce and navigation with Great Britain, concluded Dec. 22, 1815.

² The treaties and conventions prior to 1789, grouped under the countries with which they were concluded, were: France: Amity and Commerce, February 6, 1778; Alliance, February 6, 1778; Separate and Secret Act reserving to the King of Spain the right to accede to the Alliance, February 6, 1778; Contract for the Payment of Loans, July 16, 1782; Contract for a New Loan and the Payment of Old Ones, February 25, 1783; Consular Convention, November 14, 1788. Great Britain: Provisional Articles of Peace, November 30, 1782; Armistice, January 20, 1783; Definitive Treaty of Peace, September 3, 1783. Morocco, Peace and Friendship, January 1787. The Netherlands: Amity and Commerce, October 8, 1782; Convention Concerning Recaptures, October 8, 1782. Prussia, Amity and Commerce, September 10, 1785. Sweden, Amity and Commerce, April 3, 1783.

³ Netherlands, 1782, Art. IV.; Prussia, 1785, Art. XI.; Sweden, 1783, Art. V.

his goods and effects, movable or even immovable, by testament, donation or otherwise.¹ In one instance it is agreed that, if differences shall arise in consequence of an infraction of the treaty, no appeal shall be made to arms till a friendly arrangement shall have been proposed and rejected.² Stipulations for the mitigation of the evils of war are numerous. A fixed time is allowed, in the unfortunate event of hostilities, for the sale or withdrawal of goods;³ provision is made for the humane treatment of prisoners of war;⁴ the exercise of visit and search at sea is regulated and restrained;⁵ the acceptance by a citizen of the one country of a privateering commission against the inhabitants of the other or their property, when the two contracting parties are at peace, is made piracy;⁶ and not only is contraband carefully defined, sometimes both positively and negatively, so as to limit its scope,⁷ but in the treaty with Prussia it is declared that no articles, not even arms and munitions of war, shall "be deemed contraband, so as to induce confiscation or condemnation and a loss of property to individuals," but that, if captured and taken, they shall be paid for at their full value, "according to the current price at the place of destination," while, if they are merely detained, compensation must be made for the loss thereby occasioned.⁸ In the same treaty there stood another clause, exempting all merchant and trading vessels from

¹ France, Amity and Commerce, 1778, Art. XI.; Netherlands, 1782, Art. VI.; Prussia, 1785, Art. X.; Sweden, 1783, Art. VI.

² Morocco, 1787, Art. XXIV.

³ France, Amity and Commerce, 1778, Art. XX.; Morocco, 1787, Art. XXIV.; Netherlands, 1782, Art. XVIII.; Prussia, 1785, Art. XXIII.; Sweden, 1783, Art. XXII.

⁴ Prussia, 1785, Art. XXIV.

⁵ France, Amity and Commerce, 1778, Arts. XIII., XXVII.; Morocco, 1787, Arts. V., XII.; Netherlands, 1782, Art. XI.; Prussia, 1785, Art. XV.; Sweden, 1783, Arts. XIII., XXV.

⁶ France, Amity and Commerce, 1778, Art. XXI.; Netherlands, 1782, Art. XIX.; Prussia, 1785, Art. XX.; Sweden, 1783, Art. XXIII.

⁷ France, Amity and Commerce, 1778, Art. XXIV.; Netherlands, 1782, Art. XXIV.; Sweden, 1783, Arts. IX., X.

⁸ Art. XIII.

molestation in time of war.¹ These clauses were far in advance of the international law of the time. They represented an aspiration; but, if intended also as a prophecy, they yet remain for the most part unverified and unfulfilled, though they are by no means discredited.

There is yet another thing for which we are indebted in no small measure to the men who laid the foundations of our system, and that is a certain simplicity and directness in the conduct of negotiations. Observant of the proprieties and courtesies of intercourse, but having, as John Adams once declared, "no notion of cheating anybody," they relied rather upon the strength of their cause, frankly and clearly argued, than upon a subtle diplomacy for the attainment of their ends. Nor did the framework of government subsequently adopted by them admit of the practice of secrecy and reserve, such as characterized the personal diplomacy of monarchs whose tenure was for life, and who were unvexed by popular electorates and representative assemblies. Hence, as it was in the beginning, so American diplomacy has in the main continued to be, a simple, direct and open diplomacy, the example of which has exercised a potent influence on the development of modern methods.

Soon after the organization of permanent government under the Constitution, it became necessary to act upon two questions of foreign policy of more than ordinary importance. The first was that of recognizing the republic proclaimed in France by the National Convention. The position of the United States on this question was defined by Mr. Jefferson, as Secretary of State, in an instruction which has often been cited.² "When principles are well understood," said Mr. Jefferson, "their application is less embarrassing. We surely cannot deny to any nation that right whereon our own government is founded, that every one may govern itself according to whatever form

¹ Art. XXIII.

² Mr. Jefferson, Sec. of State, to Gouverneur Morris, Minister to France, March 12, 1793, Ford's Writings of Thomas Jefferson, VI. 199.

it pleases, and change these forms at its own will; and that it may transact its business with foreign nations through whatever organ it thinks proper, whether king, convention, assembly, committee, president or anything else it may choose. The will of the nation is the only thing essential to be regarded." In a word, the United States maintained that the true test of a government's title to recognition is not the theoretical legitimacy of its origin, but the mere fact of its existence as the apparent exponent of the popular will. This principle, though it necessarily found little support in Europe in 1793, has proved to be of the highest practical value; for not only has it continued to guide the course of the United States, but it has also become the generally accepted rule of international conduct.

The other great question to which we have adverted was that of the course which the United States should pursue in the first general European war, growing out of the French Revolution. In an early stage of that conflict, the government, after grave deliberation, resolved to preserve a neutral position.¹ With this decision there began the great struggle concerning neutrality, whose concluding chapter may be found only in the Treaty of Washington of 1871 and the arbitration at Geneva. The determination to be neutral involved both the maintenance of rights and the performance of duties; but neither the rights nor the duties of neutrality had ever been clearly and comprehensively defined. While publicists had laid down on the subject, with more or less doubt and hesitation, certain general principles, the practice of governments had been fitful and uncertain, and there existed no recognized standard of neutral obligations. The establishment of such a standard fell to the lot of the United States. Writing on June 5, 1793, to M. Genet, the French minister, who had, on his arrival in the United States, issued commissions to American citizens under which

¹ Washington's neutrality proclamation of April 22, 1793, and its history may be found in Moore, *International Arbitrations*, IV. 3968; V. 4406 *et seq.* This work will hereafter be cited as "*International Arbitrations*."

privateers were fitted out to prey on English commerce, Mr. Jefferson, as Secretary of State, declared that it was "the *right* of every nation to prohibit acts of sovereignty from being exercised by any other within its limits, and the *duty* of a neutral nation to prohibit such as would injure one of the warring Powers;" that "the granting military commissions, within the United States, by any other authority than their own," was "an infringement on their sovereignty, and particularly so when granted to their own citizens, to lead them to commit acts contrary to the duties they owe their own country;" and that "the departure of vessels, thus illegally equipped, from the ports of the United States," would be but an act of respect and was required as an evidence of neutrality.¹ Somewhat later Mr. Jefferson informed M. Genet that the President considered the United States "as bound, * * * in conformity to the laws of neutrality, to effectuate the restoration of, or to make compensation for, prizes which shall have been made of any of the parties at war with France subsequent to the 5th day of June last by privateers fitted out of our ports;" that it was consequently expected that he would "cause restitution to be made" of all prizes so taken and brought in subsequent to that day, in defect of which the President would consider it incumbent upon the United States "to indemnify the owners of those prizes, the indemnification to be reimbursed by the French nation;" and that, "besides taking efficacious measures to prevent the future fitting out of privateers in the ports of the United States, they will not give asylum therein to any which shall have been at any time so fitted out, and will cause restitution of all such prizes as shall hereafter be brought within their ports by any of the said privateers."² These declarations were amplified in a note to the British minister;³ and still later, in an instruction to Mr. Morris, then United States minister to France, Mr. Jefferson

¹ Am. State Papers, For. Rel. I. 150; International Arbitrations, I. 312.

² Am. State Papers, For. Rel. I. 167; International Arbitrations, I. 313.

³ Mr. Jefferson to Mr. Hammond, Sept. 7, 1793, Am. State Papers, For. Rel. I. 174; International Arbitrations, I. 314.

further declared "that a neutral nation must, in all things relating to the war, observe an exact impartiality towards the parties; that favors to one to the prejudice of the other would import a fraudulent neutrality, of which no nation would be the dupe; that no succor should be given to either, unless stipulated by treaty, in men, arms, or anything else, directly serving for war; that the raising of troops being one of the rights of sovereignty, and consequently appertaining exclusively to the nation itself, no foreign Power or person can levy men, within its territory, without its consent, * * * ; that if the United States have a right to refuse permission to arm vessels and raise men within their ports and territories, they are bound by the laws of neutrality to exercise that right, and to prohibit such armaments and enlistments."¹ To ensure the enforcement of these views instructions were issued by Alexander Hamilton, then Secretary of the Treasury, to the collectors of customs;² and Congress passed the first Neutrality Act, which forbade within the United States the acceptance and exercise by a citizen thereof of a commission, the enlistment of men, the fitting out and arming of vessels, the augmenting or increasing the force of armed vessels, and the setting on foot of military expeditions, in the service of any prince or state with which the United States was at peace.³ In due season compensation was made to British subjects, in conformity with the principles previously acknowledged, for injuries inflicted by French privateers in violation of American neutrality.⁴

"The policy of the United States in 1793," says one of the greatest of English writers on international law, "constitutes an epoch in the development of the usages of neutrality. There can be no doubt that it was intended and believed to give effect to the obligations then incumbent upon neutrals. But it represented by far the most advanced existing opinions as to what those obligations were; and in some points it even

¹ Am. State Papers, For. Rel. I. 168.

² International Arbitrations, IV. 3971.

³ Act of June 5, 1794. Int. Arbitrations, IV. 3978 *et seq.*

⁴ International Arbitrations, I. 343.

went further than authoritative international custom has up to the present day advanced. In the main however it is identical with the standard of conduct which is now adopted by the community of nations."¹ But, upon the foundations thus surely laid, there was yet to be reared a superstructure. The act of 1794, which was to remain in force for only a limited term, was afterwards extended,² and was then continued in force indefinitely.³ An additional act was passed in 1817,⁴ but this, together with all prior legislation on the subject, was repealed and superseded by the comprehensive statute of April 20, 1818,⁵ the provisions of which are now embodied in the Revised Statutes.⁶ An act similar in its prohibitions, though less effective in its administrative powers, was passed by the British parliament in the following year; laws and regulations were from time to time adopted by other governments; and the duties of neutrality became a fixed and determinate part of international law. The supreme test of the system, as the ultimate standard of national obligation and responsibility, was made in the case of the Alabama Claims, and was made successfully. By Article VI. of the treaty between the United States and Great Britain, concluded at Washington, May 8, 1871, for the settlement of those claims, it was agreed that "a neutral government is bound—

"First, to use due diligence to prevent the fitting out, arming, or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a Power with which it is at peace; and also to use like diligence to prevent the departure from its

¹ Hall, Int. Law, 4th ed., p. 616.

² Act of March 2, 1797, 1 Stats. at L. 497.

³ Act of April 24, 1800, 2 Stats. at L. 54.

⁴ Act of March 3, 1817, 3 Stats. at L. 370.

⁵ 3 Stats. at L. 449.

⁶ Revised Statutes of the United States, Title LXVII., Sections 5281-5291. The things forbidden by the act of 1818 are summarized in the neutrality proclamation issued by President Grant, Oct. 8, 1870, with reference to the Franco-German War. (16 Stats. at L. 1132.)

jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use.

“Secondly, not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, or the recruitment of men.

“Thirdly, to exercise due diligence in its own ports and waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties.”

The British plenipotentiaries, by command of their government, declared that they assented to these rules as a means of strengthening friendly relations and of making satisfactory provision for the future, and not as a statement of the principles of international law which were in force at the time when the claims arose. Into this question it is unnecessary now to enter. At the present day the substance of the rules is uncontested.¹

The struggle of the United States for neutral rights originated in the same great European conflict as the controversy respecting neutral duties. By a decree of the National Convention of May 9, 1793, the commanders of French ships of war and privateers were authorized to seize and bring in merchant vessels which were laden, either wholly or in part, with provisions, bound to an enemy's port, or with merchandise belonging to an enemy. The merchandise of an enemy was declared to be “lawful prize,” but provisions, if the property of a neutral, were to be paid for, and an allowance was to be made in either case for freight and for the vessel's detention. This decree, which was defended on the ground of a scarcity of provisions in France, ran counter to the views of the United States concerning the freedom of trade in provisions, and, so far as it affected American vessels, to the stipulation in the treaty between the two countries for the freedom of enemy goods on

¹ Rivier, *Principes du Droit des Gens*, II. 408; *International Arbitrations*, I. 670 *et seq.*

neutral ships. The operation of the decree was at one time declared to be suspended as to American vessels, but it was soon reestablished, and subsequently other decrees, yet more injurious, were adopted.¹ Meanwhile, the commanders of British cruisers were authorized to seize and bring in all vessels laden, wholly or in part, with corn, flour or meal, bound either to a port in France or to a port occupied by the French armies, in order that such corn, flour or meal might be purchased for the British government and the vessel released with an allowance for freight, or in order that the master might, on giving due security, be allowed to dispose of his cargo in the port of some country in amity with Great Britain.² This order, as in the case of the French decree, was followed by others yet more obnoxious. Against all these measures the United States protested, both by word and by deed. From Great Britain a large pecuniary indemnity was obtained.³ The controversy with France, which involved many irritating questions, culminated in the state of limited war which prevailed from 1798 to 1800.⁴

The respite which commerce enjoyed from belligerent depredations after the Peace of Amiens was of brief duration, and the renewal of the war was ere long followed by measures which, though not wholly unprefigured, retain in the history of belligerent pretensions an unhappy preeminence. The British government, in 1806, in retaliation for a decree of Prussia excluding British trade, declared the mouths of the Ems, Weser, Elbe, and Trave to be in a state of blockade. Toward the end of the same year Napoleon declared the British Isles to be in a state of blockade, and all commerce and correspondence with them to be prohibited.⁵ Great Britain then

¹ International Arbitrations, V. 4412 *et seq.*

² Order in Council of June 8, 1793, International Arbitrations, I. 300 *et seq.* The word "corn," in this order, comprehends cereals generally, as wheat, barley, rye and oats, and more especially wheat.

³ International Arbitrations, I. 341-344.

⁴ International Arbitrations, V. 4415 *et seq.*

⁵ Berlin Decree, Nov. 21, 1806.

issued an order in council forbidding neutral vessels to trade between ports in the control of France or her allies,¹ and still later another forbidding them to trade, without a clearance obtained in a British port, not only with the ports of France and her allies, but also with any port in Europe from which the British flag was excluded.² Napoleon's answer was the Milan Decree,³ by which it was declared that every vessel that had submitted to search by an English ship, or consented to a voyage to England, or paid any tax to the English government, and every vessel that should sail to or from a port in Great Britain or her possessions, or in any country occupied by British troops, should be deemed good prize. These measures, with their bald assertions of paper blockades and sweeping denials of the rights of neutrality, the United States, as practically the only remaining neutral, met with protests, with embargoes, with non-intercourse, and finally, in the case of Great Britain, which was aggravated by the question of impressment, with war,⁴ while from France a considerable indemnity was afterwards obtained by treaty.⁵ The pretensions against which the United States contended are no longer justified on legal grounds. It is now universally admitted that a blockade, in order to be valid, must be actually maintained by a force sufficient to render access to the blockaded place dangerous. The right of neutrals to trade with belligerents is acknowledged, subject only to the law of contraband and of blockade. The claim of impressment is no longer asserted.

With the claim of impressment was associated the question of visitation and search. It is conceded that the merchant vessels of a neutral nation may be visited and searched on the high seas in time of war by a belligerent cruiser for the purpose of ascertaining whether they are engaged in violating the laws of war, particularly in relation to contraband and

¹ Order in Council of Jan. 6, 1807.

² Order in Council of Nov. 11, 1807.

³ Dec. 17, 1807.

⁴ International Arbitrations, V. 3447 *et seq.*

⁵ Treaty of July 4, 1831. See International Arbitrations, V. 4460.

blockade. The United States resisted the perversion of this right to other ends, and denied the existence, apart from treaty, of any right of search in time of peace. In 1858 the Senate unanimously resolved "that American vessels on the high seas, in time of peace, bearing the American flag, remain under the jurisdiction of the country to which they belong, and therefore any visitation, molestation, or detention of such vessels by force, or by the exhibition of force, on the part of a foreign power, is in derogation of the sovereignty of the United States." "After the passage of this resolution," says Mr. Fish, "Great Britain formally recognized the principle thus announced, and other maritime powers, and writers on international law, all assert it."¹

While maintaining the freedom of the seas, the United States has also contended for the free navigation of the natural channels by which they are connected. On this principle it led in the movement that brought about the abolition of the Danish Sound Dues.² An artificial channel necessarily involves special consideration, but, reasoning by analogy, Mr. Clay, as Secretary of State, declared that if a canal to unite the Atlantic and Pacific oceans should ever be constructed, "the benefits of it ought not to be exclusively appropriated to any one nation, but should be extended to all parts of the globe upon the payment of a just compensation or reasonable tolls." This principle was approved by the Senate in 1835, and by the House of Representatives in 1839, and was incorporated in the Clayton-Bulwer treaty in 1850. It is also embodied in the pending Hay-Pauncefote treaty. It forms the basis of the treaty concluded at Constantinople in 1888, between the leading maritime powers of Europe, in relation to the Suez Canal.

¹ Foreign Relations of the United States, 1874, p. 963. See, also, Wharton's Int. Law Digest, III. 122 *et seq.* Exceptional cases, such as that of piracy, or of strictly necessary and emergent self-defense, it is impossible within the limits of the present paper to discuss.

² Int. Law Digest, I. Sec. 29.

Nor should we omit to mention, in connection with the freedom of the seas, the subject of the free navigation of international rivers. This principle, consecrated in the acts of the Congress of Vienna,¹ has been consistently advocated by the United States, and has been embodied in various forms in several of its treaties.² Among these may be cited the treaty of 1853 with the Argentine Confederation, conceding "the free navigation of the rivers Parana and Uruguay * * * to the merchant vessels of all nations;" of 1858 with Bolivia, declaring the Amazon and La Plata, with their tributaries, to be, "in accordance with fixed principles of international law, * * * channels opened by nature for the commerce of all nations;" of 1859 with Paraguay, extending to "the merchant flag of the citizens of the United States" the free navigation of the Paraguay and Parana; and of 1871 with Great Britain, declaring the navigation of the rivers St. Lawrence, Yukon, Porcupine and Stikine to be "forever free and open for purposes of commerce" to the citizens of both countries.

While the struggle for neutral rights was in progress, the Spanish colonies in America began one after another to declare their independence. In this movement the United States instinctively felt a deep concern; yet the government, adhering to its policy of non-intervention, pursued a neutral course so long as the contest was confined to the original parties. But in time a new situation arose. In the summer of 1823 the Continental powers of Europe, composing the Holy Alliance, having intervened to restore absolute government in Spain, gave notice to Great Britain of a design to call a congress with a view to concert measures for putting an end to the

¹ International Arbitrations, V. 4851.

² "A river that passes through or washes the territory of two or more states must, in respect to its navigable uses, be considered as common to all the nations who inhabit its banks, as a free gift flowing from the bounty of Heaven, intended for all whose lots are cast upon its borders." (Mr. Clay, Sec. of State, to Mr. Gallatin, June 19, 1826, Am. State Papers, For. Rel. V. 763.)

revolutionary governments in Spanish America. At this time Lord Castlereagh, who was favorably disposed to the alliance, had been succeeded in the conduct of the foreign affairs of England by George Canning, who reflected the popular opposition to the policy of the allied powers. The United States, acting upon its principle that independence should be acknowledged when it is established as a fact, had then recognized the Spanish-American governments. Great Britain had not taken this step; but English merchants, like those of the United States, had developed with the countries in question a large trade which their restoration to a colonial condition would, under the exclusive system then in vogue, cut off and destroy. Canning therefore lost no time in sounding Mr. Rush, then United States minister at London, as to the possibility of a joint declaration by the two governments against the intervention of the allies in Spanish America. When this suggestion was reported, President Monroe hastened to take counsel upon it. The opinions of Jefferson and Madison were strongly expressed and altogether favorable. In the cabinet, Mr. Calhoun, who also urged the importance of action, inclined to invest Mr. Rush with discretionary powers. Mr. John Quincy Adams, however, maintained that, as we had acknowledged the independence of the Spanish-American states, joint action could be taken only on that basis, and that the declarations of the two governments should therefore be made separately. This view prevailed. Canning, in fact, without awaiting the decision of the United States, advised the French Ambassador, on the 9th of October, 1823, that while Great Britain would remain "neutral" in any war between Spain and her colonies, the "junction" of any foreign power with Spain against the colonies would be viewed as presenting "entirely a new question," upon which Great Britain "must take such decision" as her interests "might require."¹ The announcement of the United States went further. President Monroe, in his annual message of December 2, 1823, declared that any attempt on the part of

¹ Annual Register, 1824, p. 485.

the allied powers to extend their system to any portion of this hemisphere would be considered as "dangerous to our peace and safety," and that any interposition by any European power in the affairs of the governments whose independence we had acknowledged, for the purpose of oppressing them or controlling in any other manner their destiny, could be viewed in no other light than as "the manifestation of an unfriendly disposition towards the United States." In the same message there was another declaration, made with reference to territorial disputes on the northwest coast, that "the American continents, by the free and independent condition which they have assumed and maintained, are henceforth not to be considered as subjects for future colonization by any European powers." These declarations, under the name of the Monroe Doctrine, embody a cardinal principle of American Diplomacy. As a protest against the political intervention of Europe and the extension of European dominion in this hemisphere, they found a ready lodgement in the hearts of the American people; and, thus interpreted and sustained, they still stand, as on memorable occasions they have stood heretofore, as a guarantee of the independence of governments and the freedom of commerce.

Mr. Adams, in his meditations on the question of Spanish America, reasoned thus: "Considering the South Americans as independent nations, they themselves, and no other nation, had the *right* to dispose of their condition; *we* have no right to dispose of them, either alone or in conjunction with other nations; neither have any other nations the right of disposing of them without their consent."¹ This principle, coeval with the American Republic, has also been the guide of our policy in the far East. Early on the scene in China, and the first to enter into treaties with Japan and Korea, the United States has steadfastly sought the preservation of their independence and territorial integrity, not only as a thing just and expedient in itself, but also as the logical foundation of the system of trade equality latterly denoted by the phrase "open door."

¹ Memoirs, VI. 186.

Especially is this true of those populous countries, China and Japan, our interest in which is not lessened by the fact that they have, by our acquisition of the Philippines, become our near neighbors.¹ Japan, coherent and aspiring, has at length been emancipated. China, disorganized and rent by internal disorders, portions of her territory occupied by foreign powers and the rest shadowed by spheres of influence, suggests an uncertain future. The United States lately obtained from the powers an engagement to observe throughout the Empire the principle of commercial equality. Its policy in the grave crisis that has since arisen is expressed in the circular issued by the Secretary of State on the 3rd of July last. After stating the President's purpose to act concurrently with the other powers, in the immediate protection of American interests and the restoration of order, Mr. Hay in that circular declares that as to the future "the policy of the government of the United States is to seek a solution which may bring about permanent safety and peace to China, preserve Chinese territorial and administrative entity, protect all rights guaranteed to friendly powers by treaty and international law, and safeguard for the world the principle of equal and impartial trade with all parts of the Chinese Empire."

In a sketch of American diplomacy during the past hundred years it is necessary to refer to the attitude of the government on certain questions that specially affect the rights of individuals. The Declaration of Independence enumerates, as among the "unalienable rights" with which "all men" are "endowed by their Creator," "life, liberty, and the pursuit of happiness." Whether these comprehended, incidentally, the right of the individual to renounce his allegiance at will, is a question on which opinions differed. The courts of the United States, prior to 1868, accepting the doctrine of the common law,

¹ Our treaty with China of June 18, 1858, provides (Art. I.) that "if any other nation shou'd act unjustly or oppressively, the United States will exert their good offices, on being informed of the case, to bring about an amicable arrangement of the question, thus showing their friendly feelings."

generally sustained the negative;¹ and the utterances of the executive department, even down to 1853, were by no means consistent. Mr. Buchanan, however, as Secretary of State, under the administration of Polk, broadly maintained the affirmative; and Mr. Cass in 1859 asserted that "the moment a foreigner becomes naturalized his allegiance to his native country is severed forever. He experiences a new political birth. * * * Should he return to his native country he returns as an American citizen, and in no other character." Congress in 1868 declared "the right of expatriation" to be "a natural and inherent right of all people, indispensable to the enjoyment of the right of life, liberty and the pursuit of happiness," and pronounced "any declaration, instruction, opinion, order or decision of any officers of this government which denies, restricts, impairs, or questions the right of expatriation," to be "inconsistent with the fundamental principles of this government."² Prior to the passage of this act, George Bancroft concluded with the North German Union the first treaty of naturalization.³ He made similar treaties with Baden,⁴ Bavaria,⁵ and Hesse.⁶ Before the end of 1872, treaties on the same subject were entered into with Austria-Hungary,⁷ Belgium,⁸ Denmark,⁹ Ecuador,¹⁰ Great Britain,¹¹ Mexico,¹² and Sweden and Norway.¹³ No treaty has since been added to the

¹ 2 Kent's Com. 49; *Inglis v. The Trustees of the Sailor's Snug Harbour*, 3 Pet. 99; *Shanks v. Dupont*, 3 Pet. 242; *The Santissima Trinidad*, 7 Wheat. 283; *Talbot v. Janson*, 3 Dall. 133; *Portier v. Le Roy*, 1 Yeates (Penn.) 371. *Contra*, *Alsberry v. Hawkins*, 9 Dana 178.

² Act of July 27, 1868, 15 Stats. at L. 223; R. S. Sec. 1999.

³ February 22, 1868.

⁴ July 19, 1868.

⁵ May 26, 1868.

⁶ August 1, 1868.

⁷ Sept. 20, 1870.

⁸ November 16, 1870.

⁹ July 20, 1872.

¹⁰ May 6, 1872.

¹¹ May 13, 1870.

¹² July 10, 1868.

¹³ May 26, 1869.

list. This fact may be explained not only by an unreadiness on the part of various governments to accept a compliance with the naturalization laws of the United States as a sufficient act of expatriation, but also by the exigencies of military service and the numerous cases in which it has been alleged that the treaties were abused for the purpose of evading military duty.

In the development of the modern process of extradition, the credit of the initiative belongs to France. But, beginning with the Webster-Ashburton treaty, the United States, at an important stage in the history of the system, actively contributed to its growth by the conclusion of numerous conventions.¹ We cannot afford, however, to rest on our laurels. In recent times other nations, and particularly Great Britain since 1870, observing the propensity of criminals to utilize improved facilities of travel, have, by legislation as well as negotiation, vastly increased the efficiency of the system. It will therefore be necessary, if we would fulfill the promise of our past and retain a place in the front rank, steadily to multiply our treaties and enlarge their scope. No innovation in the practice of nations has ever more completely discredited the direful predictions of its adversaries than that of surrendering fugitives from justice.

The United States, acknowledging the force and supremacy of law, has given the weight of its example to the employment of arbitration as a means of settling international disputes not only as to the rights of individuals but also as to the rights of nations. If asked for a proof of this statement, we may point to the fifty-three executed arbitral agreements to which,

¹ Art. XXVII. of the treaty with Great Britain of 1794, commonly called the Jay treaty, required the surrender of fugitives charged with murder or forgery, but it was for the most part ineffective and expired by limitation in 1808. The Webster-Ashburton treaty, signed Aug. 9, 1842, provided (Art. X.) for extradition for any of seven offences. Treaties with other countries were soon afterwards made, ten being concluded while William L. Marcy was Secretary of State, during the administration of Pierce.

during the past hundred years, the United States has been a party ; to the twelve cases in which the President, or some one appointed or approved by him, has acted as arbitrator or umpire ; and to the five pending proceedings in which the government is now directly concerned.¹ In many of these arbitrations questions of national right of the highest moment, sometimes expressed in the terms of the agreement, but often lurking in the general phrases of a claims convention, have been submitted to judgment. The opinion of the world as to the general result is attested by recent efforts to establish a permanent system of arbitration, as proposed in the plan of the International American Conference, in the unratified treaty between the United States and Great Britain, and in the pending agreement lately adopted at the Hague.

We speak of the United States ; and in its original design and purpose it still endures, and so may it endure forever ! But, in the history of its diplomacy during the past hundred years, there is nothing more striking than the record of the national expansion. First Louisiana,² then the Floridas,³ then Texas,⁴ next a half of Oregon,⁵ soon afterwards California and New Mexico,⁶ and later the Gadsden purchase,⁷ it was no mere figment of the poetic fancy that depicted the nation's pioneer as going

“ * * * joyful on his way,
To wed Penobscot's waters to San Francisco's bay.”

Not only extensive provinces, which had “languished for three centuries under the leaden sway of a stationary system,” but also vast regions in whose wild solitudes the voices of nature spoke only to barbarian ears, were rescued from the

¹ See International Arbitrations, 6 vols. ; also, the note at the end of this address.

² Treaty with France, April 30, 1803.

³ Treaty with Spain, February 22, 1819.

⁴ Joint Resolutions of March 1 and December 29, 1845.

⁵ Treaty with Great Britain, June 15, 1846.

⁶ Treaty with Mexico, February 2, 1848.

⁷ Treaty with Mexico, December 30, 1853.

dominion of misfortune and neglect, and dedicated to liberty and law and progress. And still the national advance continued. Distant Alaska, far reaching in its continental and insular dimensions, was added to the national domain;¹ the Hawaiian Islands, long an object of special protection, were at length annexed;² and Cuba, as the events of a century had foreshadowed, was detached from the Spanish crown, while by the same act all other Spanish islands in the West Indies, together with the Philippines and Guam in the Pacific, were ceded to the United States.³ By a treaty since made, Germany and Great Britain renounce in favor of the United States all their rights of possession or jurisdiction as to Tutuila and certain other islands in Samoa.⁴

The record of the century lies before us. We survey it perhaps with exultation, but we should not forget its graver meaning. With the growth of power and the extension of boundaries, there has come an increase of national responsibilities. The manner in which we shall discharge them will be the test of our virtue. To-day, reviewing the achievements of a hundred years, we pay our tribute to the wisdom, the foresight, the lofty conceptions and generous policies of the men who gave to our diplomacy its first impulse. It remains for us to carry forward, as our predecessors have carried forward, the great work thus begun, so that at the close of another century the cause of free government, free commerce and free seas may still find in the United States a champion.

¹ Treaty with Russia, March 30, 1867.

² Joint Resolution, July 7, 1898.

³ Treaty with Spain, December 10, 1898.

⁴ December 2, 1899.

NOTE ON INTERNATIONAL ARBITRATIONS. — The arbitrations of the United States, the dates, unless otherwise stated, being those of the arbitral agreements, are as follows :

Brazil, *Whale Ship Canada*, 1870. — Chile: *Case of the "Macedonian,"* 1858; claims, 1892; total, 2. — China, the *Ashmore Fishery*, 1884. — Colombia: *Panama Riot and other claims*, 1857; same subject, 1864;

Montijo case, 1874; total, 3.—Costa Rica, claims, 1860.—Denmark, Carlos Butterfield claims, 1888.—Ecuador: claims, 1862; Santos case, 1893; total, 2.—France, claims, 1880.—Great Britain: St. Croix River, 1794; Islands in Bay of Fundy, 1814; N. E. Boundary, 1814; same subject, 1827; River and Lake boundary, 1814; Lake and Land boundary, 1814; San Juan boundary, 1871; Hudson's Bay Co. claims, 1863; Impediments to Recovery of Debts, 1794; Neutral Rights and Duties, 1794; Compensation for Slaves, 1818; same subject, 1822; same subject, 1822; claims, 1853; Reserved Fisheries, 1854; Alabama claims, 1871; Civil War claims, 1871; Fisheries, 1871; Fur Seals, 1892; Bering Sea Damage claims, 1896; total, 20.—Hayti: Pelletier and Lazare cases, 1884; claims, 1885; Van Bokkelen case, 1888; total, 3.—Mexico: claims, 1839; claims, 1868; Oberlander case, 1897; total, 3.—Nicaragua, claims, 1900.—Paraguay, United States and Paraguay Navigation Co., 1859.—Peru: cases of the Georgianna and Lizzie Thompson, 1862; claims, 1863; claims, 1868; MacCord case, 1898; total, 4.—Portugal: Brig "General Armstrong," 1851; Delagoa Bay Railway, 1891; total, 2.—Salvador, Savage claim, 1864.—San Domingo, Ozama Bridge case, 1897.—Siam: Kellett case, 1897; Cheek case, 1897; total, 2. Spain: Spoliations, 1795; Case of the "Colonel Lloyd Aspinwall," 1870; Cuban claims, 1871; case of the Masonic, 1880; total, 4.—Venezuela: claims, 1866; claims, 1885; Venezuela Steam Transportation Co., 1892; total, 3.—Grand total, 57, all but 4 since 1800.

The President of the United States has acted as arbitrator in the following cases: Argentine Republic and Brazil, Misiones boundary, 1889; Argentine Republic and Paraguay, Middle Chaco territory, 1876; Colombia and Italy, Cerruti case, 1894; Costa Rica and Nicaragua, boundary, 1886; Great Britain and Portugal, Island of Bulama, 1869.—Total, 5.

Ministers of the United States have acted as arbitrator or umpire in the following cases: Argentine Republic and Chile, boundary, 1896; Chile and Peru, disputed accounts, 1874; Great Britain and Brazil, Dundonald claim, 1873; Great Britain and Colombia, Cotesworth and Powell claim, 1872; Great Britain and Honduras, claims, 1859; Italy and Switzerland, Cravairola boundary, 1873.—Total, 6.

Under the treaty between Costa Rica and Nicaragua of 1896, for the final settlement of their boundary, the President of the United States appointed Gen. E. P. Alexander, a citizen of the United States, as engineer-umpire.

Arbitrations are now pending between the United States and other powers as follows: Chile, claims, 1897; Germany and Great Britain, Samoan claims, 1899; Guatemala, May claim, 1900; Hayti, Metzger case, 1899; Russia, Bering Sea seizures, 1900.—Total, 5.

The treaty between the United States and Mexico of Feb. 2, 1848, contains (Art. xxi) a general clause as to arbitration; and the same principle

is exemplified in the treaties relating to the boundary between the two countries. (Int. Arbitrations, II. 1287, 1358.)

Great Britain, besides 20 with the United States and 4 in which the President or a minister of the United States has participated, has had arbitrations with other powers, as follows: Argentine Republic, claims, 1858; closure of port of Montevideo, 1864.—Belgium, Ben Tillett case, 1897.—Brazil, maritime captures, 1829; claims, 1858; case of the "Forte," 1862.—Buenos Ayres, maritime spoliations, 1830.—Chile, claims, 1883; claims, 1893.—Colombia, Punchard & Co. claim, 1896.—France, Portendic claims, 1842; Mineral Oil claims, 1873; Greffühle Concessions, 1893 (award).—Germany, Island of Lamu, 1889.—Greece, claims, 1850.—Hayti, claims, 1890.—Liberia, boundary, 1871.—Mexico, claims, 1866.—Netherlands, case of the Costa Rica Packet, 1895.—Nicaragua, Mosquito Indians, 1881 (award); claims, 1895.—Peru, White claim, 1864 (award).—Portugal, claims, 1840; Croft case, 1856 (award); Yuille and Shortridge claim, 1861 (award); territory on E. coast of Africa, 1872; Delagoa Bay Railway, 1891; Manica boundary, 1895.—South African Republic, boundary, 1884.—Spain, Schooner Mermaid, 1868; marine tort, 1887.—Venezuela, claims, 1868; British Guiana boundary, 1897.—Total, 33.

France, during the past hundred years, has had arbitrations, besides the 4 already mentioned, as follows: Allied Powers, claims, 1814.—Chile, claims, 1882; claims, 1895.—Chile and Peru, guano funds, 1894.—Hayti, claims, 1891 (or 1892).—Mexico, claims, 1839.—Netherlands, interest on the Dutch Debt, 1815; Guiana boundary, 1888.—Nicaragua, case of the Phare, 1879.—Spain, question of prize, 1851.—Venezuela, claims, 1864; Fabiani case, 1891.—Total, 12.

Other arbitrations between various countries may be enumerated as follows: Argentine Republic and Chile, boundary, 1896; Austria and other Powers, as to Duchy of Bovillon, 1815; Austria and other Powers, as to cantons of Tessin and Uri, 1815; Austria-Hungary and Chile, claims, 1885; Belgium and Chile, claims, 1884; Chile and Italy, claims, 1882; Chile and Sweden and Norway, claims, 1895; Chile and Switzerland, claims, 1886; China and Japan, killing of a Japanese in Formosa, 1876 (about); Colombia and Costa Rica, boundary, 1880-1897; Colombia, Ecuador and Peru, boundary, 1894; Colombia and Venezuela, 1881-1886; Khedive of Egypt and M. de Lesseps, accounts, 1864; Egypt and Foreign Powers, claims, 1883; Germany and Chile, claims, 1884; Germany and Hayti, 1895; Hayti and San Domingo, boundary, 1895 (about); Italy and Brazil, claims, 1896; Italy and Persia, customs duties, 1890; Italy and Portugal, Lavarello case, 1892; Japan and Peru, case of the "Maria Luz," 1873; Mexico and Guatemala, boundary, 1882; Netherlands and Dominican Republic, case of the "Havana Packet," 1881; Netherlands and Venezuela, Aves Islands, 1865 (award); Peru and Bolivia, question of salute to flag, 1895; arbitration between two African tribes as to the use of wells, 1887.—Total, 26.

The whole number of international arbitrations during the present century, exclusive of cases now pending and incomplete, is, according to the above list, 136.

It should be observed that in certain lists that have lately been circulated there have been included as arbitrations not only numerous cases of mediation, but also ordinary boundary surveys, domestic commissions, direct treaty settlements, and even examples of pure diplomatic negotiation, such as the Anglo-American joint commission of 1898-99. Such lists are to be deprecated. While they tend to mislead impulsive and indiscriminating writers, they also invite attack.

REPORT
OF THE
COMMITTEE ON JURISPRUDENCE AND LAW REFORM.

To the American Bar Association :

Your Committee on Jurisprudence and Law Reform beg leave to present the following report :

At the last meeting of the Association a communication from Mr. Thomas S. McClelland, of the Chicago Bar, on the subject of liability for torts committed on the high seas causing death was referred to this committee.

The subject was brought to the attention of the American public in an impressive way by the wreck of the *La Bourgogne* off Sable Island on July 4, 1898, in which a large number of citizens of the United States lost their lives. Several suits were brought in the courts of this country against the French steamship company, charging that the disaster was the result of negligence. One of those, the case of *Rundell vs. La Compagnie Générale Transatlantique*, was recently heard by the United States Circuit Court of Appeals for the Seventh Circuit, on appeal from the District Court for the Northern District of Illinois, and is reported in 100 Fed. Rep. 655. It is there held, and correctly, beyond doubt, that a suit in admiralty can not be maintained in a court of the United States either under the general maritime law or any act of Congress, to recover damages for the death of a person on the high seas which was caused by negligence.

The principles of Lord Campbell's Act creating liability for an injury causing death have been incorporated into the statute laws of the states, generally, and are recognized in both the English and French maritime law. There would seem to be no good reason why they should be excluded from the maritime law of our country.

A bill to give an action in such case was introduced in the House of Representatives by Mr. Boutell, of Illinois, on March 6th last, and is now in the hands of the Judiciary Committee of the House. A copy of it is hereto attached as an exhibit.

It is the opinion of your committee that the amendment of the law thus proposed is a wise and just one, and that it will be in the interest of law reform that the Association shall express its approval of the principles of the bill. It is therefore recommended that the following resolution be adopted by the Association :

*Resolved, That, in the judgment of this Association, the ends of justice and the harmony of the law will be promoted by the incorporation of the principles of Lord Campbell's Act into the Maritime Law of the United States; and the Association expresses its approval and commendation of the bill H. R. 9197, now pending in Congress, designed to accomplish that purpose; and the Committee on Jurisprudence and Law Reform is directed to communicate this resolution to the proper committees of Congress and respectfully advocate the passage of said bill, with the suggestion, however, that it will be advisable to include in the bill by amendment vessels carrying freight, and injuries to property as well as to persons, and to omit the provision for jury trials if the proceedings are in admiralty; and that the limitation of time for commencing suits be one year instead of five years.**

R. S. TAYLOR,
Chairman.

SAMUEL F. HUNT,
MOORFIELD STOREY.

* NOTE.—The portion of the resolution in italics was not in the report as printed, but was offered as an amendment by Robert M. Hughes, of Virginia, and was accepted by the Chairman of the committee.

56TH CONGRESS,
1ST SESSION

H. R. 9197.

IN THE HOUSE OF REPRESENTATIVES.

MARCH 6, 1900.

MR. BOUTELL, of Illinois, introduced the following bill; which was referred to the Committee on the Judiciary and ordered to be printed.

A BILL

In relation to suits against steamship companies and other carriers of passengers and freight.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assem-*
3 *bled,* That whenever the death of a person, or an injury to
4 any person, shall be caused by the wrongful act, neglect,
5 or default of any ship or navigation company, corporation,
6 individual, or individuals carrying passengers between the
7 several ports of the United States, or between the ports of
8 the United States and foreign countries, either upon the
9 high seas, or in foreign waters, or the Great Lakes, or
10 whether in foreign or domestic vessels, or caused by or
11 through the wrongful acts, neglect, or default of the ser-
12 vants, officers, or crews of such carrying vessels, actions
13 for damages shall be against such ship or navigation com-
14 pany, corporation, individual, or individuals owning or
15 navigating such vessels, in the courts of the United States,
16 where service can be had on such offending ship or navi-
17 gation company, corporation, individual, or individuals,
18 under the laws prevailing where suits may be brought, and
19 such suits may be in rem or in personam.

20 SEC. 2. That whenever the death of a person shall be
21 caused by the wrongful acts, neglect, or default set forth

1 in the first section of this Act, an action therefor shall
 2 survive and shall be brought by and in the names of the
 3 personal representatives of such deceased persons for the
 4 benefit of the next of kin of such deceased person, and
 5 either party to such actions shall be entitled to a jury as
 6 in suits at common law.

7 SEC. 3. That the United States district courts in ad-
 8 miralty and the circuit courts of the United States in
 9 actions on the case shall have jurisdiction in all such suits,
 10 and all actions for such deaths or injuries contemplated
 11 by this Act shall be instituted within five years from the
 12 time the actions accrued.

REPORT
OF THE
COMMITTEE ON JUDICIAL ADMINISTRATION AND
REMEDIAL PROCEDURE.

To the American Bar Association :

Your Committee on Judicial Administration and Remedial Procedure report :

That nothing was referred to this committee at the last session, and nothing has occurred to the members of the committee requiring a formal report.

The special committee having in charge the amendment to the statute relating to the United States Circuit Court of Appeals will, at the proper time, make report of that work, which will cover all that has been done under the head of this committee.

A. J. McCrARY,
Chairman.

REPORT
OF THE
COMMITTEE ON COMMERCIAL LAW.

To the American Bar Association :

Your Committee on Commercial Law begs leave to submit the following report :

At the annual meeting of the Association in 1899, this Committee submitted a report upon the Bankruptcy Law, which report was approved and adopted by the Association. The opinion of your Committee as expressed in such report and as approved and adopted by the Association was as follows :

- “ 1. That a Bankrupt Law is wise and beneficent legislation.
2. That the general features of the present Bankrupt Law should have the approval and support of the bar and the commercial community.
3. That whatever amendments are made to the provisions of the law relating to voluntary bankruptcy should be in the line of a better protection to the creditor against fraud in the bankruptcy proceedings.
4. That the amendments to the provisions of the law relating to involuntary bankruptcy should be along the lines of a better remedy for the creditor for fraud, actual or contemplated, on the part of the debtor previous to the institution of bankruptcy proceedings.
5. That the ideal Bankrupt Law is one that
 - (a) Allows every honest debtor to procure a speedy discharge from his obligations upon the surrender of all his property ;
 - (b) Gives every creditor a complete remedy against actual or contemplated fraud on the part of the debtor ;
 - (c) Punishes all fraud on the part of the debtor or creditor with relentless severity.”

This report seems to have met with general approval from the bar and the mercantile community.

The Attorney General of the United States in his annual report has quoted from it extensively and with unqualified commendation, it has been before the members of the Judiciary Committee of both houses of Congress, and it is the basis of much proposed remedial legislation.

The members of the Committee on Commercial Law congratulate the members of the American Bar Association on the high stand the Association has taken on the bankruptcy question, and they thank the Association for the solid and substantial support it has given to your Committee in its efforts to sustain and improve the law.

Your Committee on Commercial Law, at the last meeting of the Association, was instructed

“To continue its study and investigation of the practical workings of the Bankrupt Law, and to report further thereon at the next meeting of the Association, with any amendments they may deem necessary for the perfection of the statute.”

Your Committee has obeyed the command of the Association, and has continued its study and investigation of the practical workings of the Bankrupt Law.

We have kept in close touch with the United States Attorney General, the Congressional Judiciary Committees and the principal commercial bodies of the country.

On March 22nd last, Hon. George W. Ray, of New York, Chairman of the Judiciary Committee, introduced into the House of Representatives a comprehensive and carefully drawn bill amending the bankruptcy act.

At a meeting of our Committee held in New York City, on April 29th last, we had the Ray bill before us, and after carefully considering its provisions, we adopted the following resolution :

“*Resolved*, That the amendments proposed to the National Bankrupt Act by the Ray bill, now pending before the House of Representatives, meet with the hearty approval of this Committee.”

This resolution was transmitted to the Judiciary Committee of both houses of Congress and to the Attorney General, and

we have had considerable correspondence with them upon the subject.

The Ray bill failed of passage at the last session of Congress, but is still on the calendar and is likely to be brought up at the next session.

We ask the Association to sustain your Committee in approving the Ray bill, and to give the bill the formal approval of the Association.

The Ray bill deals principally with the sections of the bankruptcy act which relate to voluntary bankruptcy.

Its most radical and important amendments are to section fourteen of the act, and relate to the grounds upon which a discharge in bankruptcy may be refused.

Section fourteen, as the law now stands unamended by the Ray bill, is as follows :

“SECTION 14.—DISCHARGES, WHEN GRANTED. (a) Any person may, after the expiration of one month and within the next twelve months subsequent to being adjudged a bankrupt, file an application for a discharge in the court of bankruptcy in which the proceedings are pending ; if it shall be made to appear to the judge that the bankrupt was unavoidably prevented from filing within such time, it may be filed within but not after the expiration of the next six months.

(b) The judge shall hear the application for a discharge, and such proofs and pleas as may be made in opposition thereto by parties in interest, at such time as will give parties in interest a reasonable opportunity to be fully heard, and investigate the merits of the application and discharge the applicant unless he has

(1) Committed an offense punishable by imprisonment as herein provided ; or

(2) With fraudulent intent to conceal his true financial condition and in contemplation of bankruptcy, destroyed, concealed or failed to keep books of account or records from which his true condition might be ascertained.

(c) The confirmation of a composition shall discharge the bankrupt from his debts, other than those agreed to be paid by the terms of the composition and those not affected by a discharge.”

Section fourteen, as amended by the Ray bill, would read:

“SECTION 14.—DISCHARGES, WHEN GRANTED. (a) Any person, not a corporation, may, after the expiration of two months and within the next twelve months subsequent to being adjudged a bankrupt, file an application for a discharge in the court of bankruptcy in which the proceedings are pending; if it shall be made to appear to the judge that the bankrupt was unavoidably prevented from filing it within such time, it may be filed within but not after the expiration of the next six months.

(b) The judge shall hear the application for a discharge and such proofs and pleas as may be made in opposition thereto by parties in interest, at such time as will give parties in interest a reasonable opportunity to be fully heard, and investigate the merits of the application and discharge the applicant unless he has

(1) Committed an offense punishable by imprisonment as herein provided; or

(2) With intent to conceal his financial condition, since the passage of this Act, destroyed, concealed or failed to keep books of account or records from which such condition might be ascertained; or

(3) Obtained property on credit, which has not been paid for or restored at the time the petition is filed by or against him, upon a materially false statement in writing made by him to any person for the purpose of obtaining credit, or of being communicated to the trade, or to the person from whom he obtained such property on credit; or

(4) Made a fraudulent preference which has not been surrendered within ten days after demand by a receiver or trustee; or

(5) Made a fraudulent transfer of any portion of his property to any person; or

(6) Materially contributed to or brought on his bankruptcy by gambling; or

(7) Been granted a discharge in bankruptcy within six years; or

(8) In the course of his proceeding refused to obey any lawful order of or to answer any question approved by the court.”

It will be seen that the two grounds of opposition to the discharge of the bankrupt contained in the original bill are retained, and six new grounds of opposition added.

Under the original bill it seemed almost impossible to prevent the granting of a discharge. The courts have, however, been better than the statute, and in many cases discharges have been refused even under the law as it now stands; but the additional grounds for refusing a discharge, which the Ray bill provides for, will make the law very much cleaner, and do much to prevent its abuse and its use for fraudulent purposes.

Section seventeen, which relates to debts not affected by a discharge, remains the same, except as to the second sub-division.

In the law as it now stands, the debts exempted by this second sub-division from the operation of a discharge are:

“Judgments in actions for fraud, or obtaining property by false pretenses or false representations, or for willful and malicious injuries to the person or property of another.”

Under the Ray bill amendments the debts exempted by the second sub-division would be:

“Liabilities for frauds, or obtaining property by false pretenses or false representations, or for willful and malicious injuries to the person or property of another, or for alimony due or to become due, or for maintenance or support of wife or child, or for seduction of an unmarried female.”

This amendment further improves the act in the interest of good morals.

Section three, which enumerates the acts of bankruptcy, is amended only as to the fourth enumerated act of bankruptcy. Under the present law, sub-division four makes it an act of bankruptcy if the bankrupt has

“made a general assignment for the benefit of his creditors.”

Under the Ray bill amendment this is changed so as to read as follows:

“Made a general assignment for the benefit of his creditors, or, if a corporation, applied for or been put in charge of a receiver or trustee under the laws of a State or Territory or of the United States, on the ground of insolvency.”

Section four, which relates to who may become bankrupts, is amended so as to allow a corporation to become a voluntary

bankrupt with the assent of a majority of its stockholders, but provision is made that

“(d) The bankruptcy of a corporation shall not release its officers, directors or stockholders, as such, from any liability under the laws of a State or Territory of the United States.”

The other changes made by the Ray bill are not of especial importance in connection with our report.

Your Committee has given its unqualified endorsement, and asks this Association to give its unqualified endorsement, to all the amendments proposed by the Ray bill. We believe that there is not one of them that does not tend to the perfection of the Bankruptcy Law.

We hope that the Ray bill may be passed without amendment, and we do not ask that its passage should be imperiled by the addition of the further amendments which your Committee believe should be made to the Bankruptcy Law.

The Ray bill is not, however, in the opinion of your Committee, by any means the end of desirable bankruptcy legislation. It is unqualifiedly desirable so far as it goes, but before the Bankruptcy Act can be perfected we believe further amendments not included in the Ray bill will have to be made.

The Ray bill leaves the Bankruptcy Act, so far as it is an act for voluntary bankruptcy and for the discharge of a voluntary bankrupt, in a tolerably perfect condition. We know of little more to ask of the Bankruptcy Act as a provision for voluntary bankruptcy. It furnishes an avenue through which an honest but unfortunate debtor may seek and promptly obtain the application of his present property towards the payment of his debts and the discharge of his future earnings or acquisitions from all liability for them. It furnishes all the safeguards which experience has found to be available to protect the community from a dishonest debtor who seeks to obtain his discharge without giving up his property. It furnishes a machine, which can be used effectively and economically, for the administration of the estate of an insolvent person.

We believe that with the Ray bill amendments the debtor has nothing more to ask of the Bankruptcy Law.

But what of the creditor?

The stand which your Committee and this Association took last year in favor of a Bankruptcy Law which should be a law for the benefit of a creditor as well as for the benefit of a debtor, has met with almost universal approval.

The clarion note which the Association sounded at Buffalo in 1899, evoked a hearty response from the bar and the mercantile community throughout the nation.

A one-sided Bankrupt Law can never become a permanent part of American jurisprudence. A law which is intended only to allow debtors to escape from the payment of their debts will never permanently commend itself to the fair-minded people of the United States. A Bankrupt Law, to be permanent must be just, and to be just, it must be a law for the honest creditor as well as for the honest debtor.

The features of the Bankruptcy Act which relate to involuntary bankruptcy are quite as important as those which relate to voluntary bankruptcy. The provisions which allow a creditor to seek relief when his debtor is doing or contemplating wrong, are quite as important as those which allow a debtor relief when a creditor may be seeking to oppress him.

Credit is the confidence which a fair-minded creditor reposes in an honest debtor. The voluntary part of a bankrupt law gives relief to the debtor when the creditor becomes over-exacting or demands impossibilities, and the involuntary part of the law should be just as effective to give relief to the creditor when the confidence which he has reposed in the debtor has been found to be misplaced. If a creditor is to be limited in his remedy to the sequestration of the present property of a debtor and is to be cut off from all claim upon future earnings or acquisitions, he should at least be given every possible remedy against the present property on which alone he may rely for the payment of his debt. If you take away one remedy you should give another of at least equal

value, else you impair the basis of commercial credits and injure the debtor quite as much as the creditor.

The part of the Bankruptcy Act which relates to involuntary bankruptcy is the part which is especially intended for the benefit of a creditor, and is intended to compensate him for what he has to give up when the debtor gets his discharge and he loses his remedy against future earnings or acquisitions.

The compensation should be equivalent to the loss. The protection and security which the creditor acquires by the involuntary portions of the act should be equal to the loss which he suffers by reason of the rights which the debtor has under the voluntary features of the act.

It is our opinion that the Bankruptcy Law as it now stands, and as it will stand if the Ray amendments are adopted, does not furnish a sufficient compensation to the creditor for the loss that he suffers in being obliged to give up his remedy against the future earnings and acquisitions of the debtor. We believe the bankruptcy law, as it now stands and as it will stand with the Ray amendments added, to be one-sided—to be a debtor's law rather than a debtor's and creditor's law—to be a law for the benefit of one class in the community rather than for the benefit of all classes.

It is class legislation.

It interferes with the laws of trade only by making them more unjust. It interferes with commercial credits by taking away the basis of all credits and substituting nothing satisfactory in its place. It adds an additional peril which the creditor has to take into account when he is considering the question of giving credit to a debtor. It makes credits more unsafe than before, and so restricts the giving of credits. It takes away the ability of the debtor to obtain credit by making it unsafe for the creditor to grant it.

The first part of Section three of the Bankrupt Act, as amended by the Ray bill, will read as follows:

“SECTION 3.—ACTS OF BANKRUPTCY. Acts of bankruptcy by a person shall consist of his having

(1) Conveyed, transferred, concealed, or removed, or permitted to be concealed or removed, any part of his property with intent to hinder, delay, or defraud his creditors, or any of them; or

(2) Transferred, while insolvent, any portion of his property to one or more of his creditors with intent to prefer such creditors over his other creditors; or

(3) Suffered or permitted while insolvent, any creditor to obtain a preference through legal proceedings, and not having, at least five days before a sale or final disposition of any property affected by such preference, vacated or discharged such preference; or

(4) Made a general assignment for the benefit of his creditors, or, if a corporation, applied for or been put in charge of a receiver or trustee under the laws of a State or Territory or of the United States, on the ground of insolvency; or

(5) Admitted in writing his inability to pay his debts and his willingness to be adjudged a bankrupt on that ground."

Your Committee recommends as an amendment to Section three, two additional acts of bankruptcy to be added to the five already provided for, as follows:

"Or (6) while insolvent risked his money or estate or any substantial part thereof, or diminished the security of his creditors by

(a) Gambling or

(b) Speculating in any securities or property outside of his ordinary business or

(c) So wastefully, recklessly or improvidently managing his business affairs as to do substantial injury to his creditors or imperil the claims of such creditors.

Or (7) If a corporation paid, while insolvent, extravagant salaries to its officers or employes."

We do not claim for our proposed amendment that it covers the whole ground or that it is by any means the last word that is to be said in respect to the features of the law which provide for involuntary bankruptcy. We are well aware of the practical difficulties in the way of accomplishing what we seek. We know too well the infirmity of human language, especially when one attempts to provide by general phrases for particular emergencies.

But we believe that the adoption of this amendment would do something towards remedying the evil which we have endeavored to set forth, and would make the Bankruptcy Act a fairer piece of legislation.

We believe it would do something—perhaps much—towards the establishment of a more rational basis for commercial credits. We believe it would benefit the creditor by giving him an additional remedy against a reckless debtor, and that it would benefit the honest debtor by giving him a broader basis for the credit that he seeks and by taking away some of the elements of chance which the creditor has to consider when the application for credit is before him.

The present “acts of bankruptcy” give the creditor no remedy whatever unless the debtor deliberately seeks to defraud his creditors or to prefer one creditor over another, or suffers or permits such a preference, or commits an overt act in the way of making an assignment for the benefit of his creditors, or admits in writing his inability to pay his debts and is willing to be adjudged a bankrupt on that ground.

There is nothing in the present law or in the law as amended by the Ray Bill that gives a creditor any remedy whatever against a reckless or improvident debtor.

The debtor, instead of using his money to pay his debts, may gamble with it, may speculate with it, may use it as wastefully or improvidently as he chooses, and the creditor has no remedy except that when his debt becomes due he may sue upon it and collect it if he can.

A man may have a thousand dollars in cash and owe debts of a thousand dollars which he ought to pay with that cash; instead, he may go into a gambling house and bet it on the turn of a wheel, and the creditor has no remedy. He may go into a worse than gambling house on Wall Street, or State Street, or Chestnut Street, and bet it on the turn of something more uncertain than a wheel, and the creditor has no remedy. He may indulge in wild recklessness in his business ventures, or wild extravagance in his personal outlays, and the creditor has no remedy.

It is the object of our proposed amendments to furnish the creditor with a remedy under such circumstances. When a man is in debt he has no moral—and we believe he should have no legal—right to use the money or the property with which alone he can pay that debt, in such a way that the creditor takes all the chances in case of failure, and the debtor reaps all the profit in case of success.

We are not at all unmindful of the difficulties in the way of enforcing such a provision in the statute as we seek to have enacted. It may be that in many cases, perhaps most cases, the creditor would not discover the wrong that was being done him until it was too late to apply the remedy. The stable door might be locked only after the horse was stolen.

But the difficulty of enforcing a right is no reason why it should be withheld.

The least that the legislature can do is to put it in the power of the creditor to protect himself and leave it to his diligence to apply the remedy. Let the legislature do its part, and the creditor cannot then complain if by any want of diligence or alertness he fails to do his.

But there would be no greater inherent difficulty in the way of enforcing the provisions of the statute that we advocate than there is in enforcing the statute against fraudulent conveyances or many other statutes which are liable to be evaded; and there are many cases—no one knows how many—where the statute we propose might be a strong and effective weapon in the hands of justice.

Your Committee desires especially to commend the work done during the last year, particularly in reference to the administrative features of the Bankruptcy Act, by the National Association of Referees in Bankruptcy. They, more perhaps than anyone else, are responsible for the Ray bill, which cannot be too highly commended.

They are also responsible for two other proposed amendments to the act which seem to have been made necessary by decisions made since the Ray bill was formulated. These two amendments are as follows:

1. That, to meet the line of decisions of which *Columbus Electric Co. vs. Worden*, 99 Fed. Rep. 400, is typical, section fifty-seven-*g* (57*g*) be amended to read as follows :

“(*g*) The claims of creditors who have received preferences voidable under section 60*b* shall not be allowed, unless such creditor shall surrender such preferences.”

(The new part is in italics.)

The present law as interpreted by these decisions is, as stated in the head-note of the *Columbus Electric Co. vs. Worden* case :

“Under Bankruptcy Act, 1898, section 57*g*, providing that the claims of creditors of a bankrupt who have received preferences shall not be allowed unless they surrender their preferences, a creditor who has actually received a preference, by a partial payment of his debt, within four months before the bankruptcy of the debtor, cannot have his claim allowed against the estate of the bankrupt without surrendering the preference; and this, notwithstanding the fact that he received the payment innocently, and that he had no knowledge or cause to believe that the debtor was insolvent or that a preference was intended.”

The amendment would make the creditor surrender his preference only in case he “had reasonable cause to believe that it was intended thereby to give a preference.”

2. That section 23 and section 2 (7) be modified, either by the repeal of section 23*b* entirely and the elimination from section 2 (7) of the words: “except as herein otherwise provided,” or by any other proper change, to the end that the Federal courts charged with the administration of the Bankruptcy Law shall have concurrent jurisdiction with the state courts of all controversies between the trustee in bankruptcy and adverse claimants; this is to meet the very recent decision of the Supreme Court of the United States in the case of *Bardes vs. The Bank of Hawarden*, which holds that the United States courts have no jurisdiction under the present law in such cases.

We approve of both these amendments and ask for them the approval of the American Bar Association. They are in

entire harmony with our effort to make the Bankruptcy Act a creditor's as well as a debtor's law.

Your Committee on Commercial Law also believes that the fees of referees in bankruptcy should be increased.

The fees at present are certainly too small—insufficient to attract the talent requisite for the office, and now that the rush of business incident to the inauguration of the law is over, wholesale resignations of referees are likely to follow unless there is an increase in the compensation. We do not think this Association should attempt to fix the rate of fees which in their judgment should prevail; but we think it should call the attention of Congress to the fact that the present rate is insufficient and ask Congress in its wise judgment to make such moderate increase as will insure to this most important office the ability which it needs.

There is no reason why an officer of the bankrupt's court should have to become a bankrupt himself; and the Bankruptcy Law, especially if it is to become a creditor's as well as a debtor's law, ought to provide reasonable compensation for those whose duty it is to carry into effect its provisions.

Your Committee on Commercial Law, therefore, asks of the Association:

1. That it ratify and approve the action of the Committee in relation to the Ray bill and that it formally endorse the Ray bill and advocate its passage at the next session of Congress.

2. That it approve the following amendments proposed by the National Association of Referees in Bankruptcy.

“1. That, to meet the line of decisions of which *Columbus Electric Co. vs. Worden*, 99 Fed. 400, is typical, section fifty-seven-g (57g) be amended to read as follows:

‘g. The claims of creditors who have received preferences voidable under section 60b, shall not be allowed, unless such creditor shall surrender such preferences.’

2. That section 23 and section 2 (7) be modified either by the repeal of section 23b entirely and the elimination from section 2 (7) of the words, ‘except as herein otherwise pro-

vided,' or by any other proper change, to the end that the Federal courts charged with the administration of the Bankruptcy Law shall have concurrent jurisdiction with the State courts of all controversies between the trustee in bankruptcy and adverse claimants."

3. That it recommend to Congress an increase in the compensation of referees in bankruptcy.

4. That it recommend to Congress the further amendment of the third section of the Bankruptcy Act by adding to the five acts of bankruptcy already enumerated two additional acts of bankruptcy, as follows :

" Or (6) while insolvent risked his money or estate or any substantial part thereof, or diminished the security of his creditors by

(a) Gambling or

(b) Speculating in any securities or property outside of his ordinary business or

(c) So wastefully, recklessly or improvidently managing his business affairs as to do substantial injury to his creditors or imperil the claims of such creditors.

Or (7) If a corporation paid, while insolvent, extravagant salaries to its officers or employees."

The Committee is unanimously in favor of the amendments to the Bankruptcy Act advocated and endorsed in this report, except that Mr. Hagerman is opposed to the extension of the involuntary features of the Bankrupt Law, and is also opposed to that feature of the Ray bill which makes it an act of bankruptcy where a corporation is put into the hands of a receiver. While dissenting from the majority of the Committee on these points, he is in favor of all the other recommendations of the Committee and signs the report.

Respectfully submitted,

WALTER S. LOGAN,

Chairman.

JAMES HAGERMAN,

HENRY BUDD,

JOHN T. MASON, R.,

LAWRENCE MAXWELL,

Committee.

NEW YORK, July 20, 1900.

REPORT
OF THE
COMMITTEE ON INTERNATIONAL LAW.

To the American Bar Association :

The Committee on International Law respectfully report as follows :

Your committee was instructed at the last meeting of the Association to bring to the attention of the President and the Senate the resolution adopted by this Association at its last meeting, in reference to the Convention for the Peaceful Adjustment of International Differences, which had been adopted at the Hague Congress. Your committee did accordingly transmit a copy of this resolution to the President of the United States and to the Secretary of State, and also to the Senate of the United States, and it conferred with committees from other bodies, and especially with a committee of the International Law Association, which had been appointed on the same subject. It was not deemed advisable that your committee should request a public hearing before the Committee on Foreign Relations of the United States Senate. The Convention referred to was transmitted to the Senate of the United States by the President, and was ratified by the Senate. We were informed by the State Department, July 24, 1900, that this Convention had then also been ratified by Spain, by Austria, by Russia and by the Netherlands.

The committee recommends for adoption the following resolution :

Resolved, That the Committee on International Law be authorized and requested to continue the discharge of the

duty committed to it at the meeting of this Association, in 1899.

EVERETT P. WHEELER,
RICH'D M. VENABLE,
HENRY ST.G. TUCKER.

BERKELEY LODGE,
OLD FORGE P. O., N. Y., *August 10, 1900.*

HON. EVERETT P. WHEELER,
New York, N. Y.

My dear Sir :

I have received your letter of the 6th, inclosing a copy of the proposed report of the Committee on International Law to the American Bar Association, and fully approve the same.

Very truly yours,

BENJ. HARRISON.

REPORT
OF THE
COMMITTEE ON OBITUARIES.

The Committee on Obituaries announce the names of members who have died since the last meeting, as follows, viz:

ALABAMA.

ROQUEMORE, JOHN D., Montgomery.

INDIANA.

BRADLEY, JOHN H., LaPorte.

KORBLY, CHARLES A., Indianapolis.

SAYLER, HENRY B., Huntington.

IOWA.

AYRES, O. B., Des Moines.

KENTUCKY.

DAVIE, GEORGE M., Louisville.

GOEBEL, WILLIAM, Covington.

SUDDUTH, W. A., Louisville.

MAINE.

STETSON, CHARLES P., Bangor.

MASSACHUSETTS.

ENDICOTT, WILLIAM C., Danvers.

HOPKINS, W. S. B., Worcester.

MICHIGAN.

CUTCHEON, SULLIVAN M., Detroit.

*MONTGOMERY, MARTIN V., Lansing.

MINNESOTA.

TODD, WILLIAM E., Albert Lea.

MISSISSIPPI.

HILL, R. A., Oxford.

MISSOURI.

LEWIS, JAMES M., St. Louis.

NEBRASKA.

HARWOOD, N. S., Lincoln.

NEW HAMPSHIRE.

SPRING, JOHN L., Lebanon.

NEW YORK.

DAVISON, CHARLES A., New York.

ROBERTSON, WILLIAM H., Katonah.

ROGERS, SHERMAN S., Buffalo.

OHIO.

PRATT, CHARLES, Toledo.

PENNSYLVANIA.

ADDICKS, WILLIAM H., Philadelphia.

VERMONT.

PHELPS, EDWARD J., Burlington.

WISCONSIN.

*BENNETT, JOHN R., Janesville.

MALLORY, JAMES A., Milwaukee.

SUTHERLAND, GEORGE E., Milwaukee.

JOHN HINKLEY,
J. W. FELLOWS,
E. M. BARTLETT,
Committee.

Saratoga Springs, N. Y., August 29, 1900.

NOTE.—This report includes those members of whose death the Committee have been informed up to August 29th, 1900. Obituary notices (including some members not in the above report) will be found near the end of this volume.

*Obituary notice published in the 1899 report.

REPORT
OF THE
COMMITTEE ON LAW REPORTING AND DIGESTING.

To the American Bar Association :

Your committee have little to add to the suggestions they made in their reports of last year and the year before it. The two things to which especially the attention of the Association has been directed are the importance of uniformity of plan in the reports and digests of the different jurisdictions throughout the country and the inconvenience of the rapid increase in the number and volume of the reported cases.

We suggested in 1898 that the most practicable way of securing uniformity was to have the state reports follow the general plan of those series of reports and digests that are common to the whole country, and that if improvements were to be made, these plans should be taken as the basis of the work, and so a model might be obtained to which all local reports might readily conform. There were then two series of digests, embracing the reports of all the state and Federal courts. These two have now been combined, so that there is but one system of classification, based upon that of the Century Digest, in which all the decisions of the whole country down to the present time have been collected and arranged, and the publishers of this digest, accepting our suggestion, have taken pains to facilitate the adoption of that plan by the editors of other reports. They have printed a pamphlet containing the main titles of their analysis, with their principal divisions and sub-divisions, and notes showing the scope of the various titles and sub-titles, and also an introduction by the editor explaining the basis of the analysis and the mode of its application. These they have given to all editors who have asked for them and they have had not less than one hundred applica-

tions for them during the past year and a half, and the scheme has already been adopted by several of the state editors for their indexes and by the compilers of several local digests now in course of preparation, and we understand that it is to be adopted by the Bancroft-Whitney Company in their publications and reports of series of cases of general interest to the profession. It is evident therefore, that uniformity can easily be obtained by the general adoption of a plan that is already equally familiar to lawyers in all parts of the country; but uniformity is not the only end to be sought. No state should be asked to give up the excellencies of its own system merely for the sake of obtaining uniformity. There are points of excellence in the plans of many of the states that should be retained, and there are defects in the plan to which we have referred that should be corrected before it is adopted as the standard to which the official reports of the whole country should conform. We cannot go into the matter in detail, but we repeat our suggestion that uniformity be sought by taking as a basis the system with which we are all equally familiar, and that the reports of the various states shall co-operate in endeavoring to contribute to the improvement of this system and the adoption of a standard to which all the digests should substantially conform. .

The other matter to which we have called special attention is the rapid increase in the number and volume of reported decisions. There are, as we have said, many opinions which are of no value as precedents, some because they merely reaffirm principles which are already well settled, and others because they involve mere questions of fact. If these were omitted from the reports the volume of the reports would be greatly reduced and what remained would be of real value. The difficulty is, however, that neither the judges nor the reporters are able to decide with certainty what opinions are of no value to the profession.

The decisions make the law, whether they are reported or not, and the bar wishes to judge for itself whether the

decisions have departed from former precedents. There are some opinions, however, that can certainly be omitted with safety, and there are many others of which it would be sufficient to publish merely the syllabus referring to the opinion in the files of the court. The increase in the volume of the reports is so very rapid and the expense and shelf-room involved in the printing of them all are so great that even at the risk of losing something that may be of value, some remedy for the evil must be found, and we suggest that it be recommended to the reporters of the national system and to the official reporters of the various states that they omit such cases as are clearly of no value as precedents and report only the syllabus, or at most an abstract of those cases in which the opinion deals merely with questions of fact or applies well-known principles to familiar conditions of fact and in which prior cases are not distinguished, but merely applied to the case in hand. In such cases reference should be made to the leading cases cited in the opinion.

EDWARD Q. KEASBEY,
Chairman.

WILLIAM T. BRANTLY.

REPORT
OF THE
COMMITTEE ON PATENT, TRADE-MARK AND
COPYRIGHT LAW.

To the American Bar Association :

Your Committee has continued the work of the Special Committee on Trade-marks, whose report to the Association, embodying a suggested bill to be presented to Congress, was adopted at the last meeting. It has been regarded as of the utmost importance that the Association should as far as possible work in harmony with the Commission appointed pursuant to the Act of Congress, approved June 4, 1898, to suggest amendments to the patent and trade-mark laws, and with this object in view, a sub-committee of your committee has been in Conference, throughout the year, with that commission. While in many respects there is entire harmony in the views of the Commission and your committee, your committee has not yet been able to assent to all the suggestions informally advanced by the Commission at these conferences. It is not impossible that a definite agreement may be reached as the result of further conference.

Your committee has its proposed bill prepared, and the same is ready for introduction in Congress. It has, however, been deemed wise not to introduce it until the Commission has completed its labors, when it will become apparent whether or not your committee can approve the bill of the Commission and recommend it to the Association for its approval, or will be obliged to dissent from some of its provisions, in which case it might become necessary that your committee should introduce the bill prepared by it, perhaps with such modification as may be proper to make it conform to the bill of the Commission, as

far as may be done consistently with the views of the Association, as expressed by its approval of the bill submitted last year.

The form in which the bill prepared by your committee now stands is hereto appended. In substance, it is the same as the bill approved by the Association at its last meeting, changes which are believed to have improved the bill having been made in minor details only.

Your committee recommends that it be authorized to continue its efforts to secure the much-needed revision of the trade-mark laws of the United States on the lines of the bill herewith submitted, and to cooperate with the Commission appointed under the Act of Congress with the view of obtaining, as far as possible, the incorporation into the bill to be prepared by the commission, of the provision to which the Association has given its assent.

FREDERICK P. FISH,
Chairman,

EDMUND WETMORE,
LESTER L. BOND,
JAMES H. HOYT,
ARTHUR STEUART.

NOTE.—A proposed form of bill was presented with the report.

REPORT
OF THE
SPECIAL COMMITTEE ON INDIAN LEGISLATION.

To the American Bar Association :

Your Committee on Indian Legislation has further considered the subject referred to them and beg leave at this time to report as follows, viz. : The Committee still adhere to the report made by them to the Association at its annual meeting in 1893, and to the form of the act accompanying said report conferring upon Indians residing upon the Reservations in the various states and territories, all the legal rights and remedies possessed by citizens of the United States, and herewith report for the action of the American Bar Association a resolution, which they deem expedient to have adopted by the Association at this meeting, viz. :

Resolved, That the American Bar Association readopts and reaffirms its action on the matter of Indian Legislation, taken at its annual meeting in 1893, and earnestly recommends to the Honorable Secretary of the Interior, the Honorable Commissioner of Indian Affairs, and to the chairman of the Committee on Indian Affairs of the Senate and of the House of Representatives, that such legislation be had at the earliest time practicable as will confer upon all Indians residing upon the Reservations in the various states and territories of the United States, and vest in them all the legal rights and remedies possessed by citizens of the United States unless otherwise expressly provided by law.

Resolved, That the Secretary of this Association transmit a copy of this resolution, together with the report of the Committee on Indian Legislation, and the action of this Association thereon at the Annual Meeting of 1893, to the President of

the United States, the Honorable Secretary of the Interior, the Honorable Commissioner of Indian Affairs, and to each member of the Committee on Indian Affairs of the House of Representatives and of the Senate in the present Congress.

Respectfully submitted,

JOHN B. SANBORN,
Chairman.

GARDINER LATHROP,
L. G. KINNE.

NOTE.—The report of the Special Committee on Indian Legislation, submitted at the meeting of the American Bar Association held at Milwaukee, on September 1, 1893, and the proposed form of act, are here appended for reference. This report when presented was received and referred to the Committee on Jurisprudence and Law Reform for consideration and report at the next meeting. At the meeting held at Saratoga Springs on August 24, 1894, the Committee on Jurisprudence and Law Reform reported, recommending the passage of the resolutions reported by the Committee on Indian Legislation in 1893 as recommended at the end of the 1893 report. The Secretary complied with the resolution in January, 1895, by sending to the President of the United States, the Secretary of the Interior, the Commissioner of Indian Affairs and to each member of Congress a copy of the report.

REPORT

OF THE

SPECIAL COMMITTEE ON INDIAN LEGISLATION.

[Made to the Association, September 1, 1893.]

To the American Bar Association :

Your Committee on Indian Legislation respectfully report that they have had under consideration the subject referred to them and have agreed upon the following report, viz. :

First—That this Association and the respective members thereof will exercise all the influence at their command to carry into practical effect the sentiment and principle expressed by the Association at its meeting in Boston, August 26, 1891, in the following words, viz.: “It is the opinion of this Association that the United States should provide at the earliest possible moment courts and a system of law for the Indian Reservations.”

Your Committee are of the opinion that there can be no practical civilization with the Indians, or any other people, until a rational code of laws is established and adequate means provided for their efficient and speedy execution.

But comparatively few of our public men, or of our people of any class, make themselves familiar with the details of the Indian service or with the condition of the Indian tribes. It seems, however, that all who have done so, whether as philanthropist or statesman, during the last quarter of a century, have come to the same conclusion, that the greatest need of the Indian race at the present time is to have established and administered for them a system of law whereby all controversies between the tribes and bands of Indians and the United States, between Indians personally and Indians and white men, can be decided and settled in the courts without an appeal longer to physical force, and that laws relating to property and the descent of property be established and administered for the Indians.

In support of the foregoing proposition the Committee have felt at liberty to quote quite at length from Document No. 14, Boston Indian Citizenship Committee, printed in the Atlantic Monthly for October and November, 1891:

“Upon some agencies the agent is directed to appoint Indians to hear and judge the complaints of their fellows against one another, subject to the revision of the agent himself, and ultimately of the commissioner. The testimony is uniform, I think, as to the salutary and steadying effect of these ‘courts.’ Of course they are not courts in our ordinary

sense, for they do not administer law, but merely certain rules of the Indian Department. They bear about the same relation to courts, in the proper sense of the term, that courts-martial do; they are really a branch of the Executive Department. But their effect in educating the Indians and assisting the Department in its heavy burden of government has been such as to point clearly to the wisdom of following up this good beginning (the suggestion of Commissioner Hiram Price, I believe) and giving the Indians real courts and real law. This is what we must do—extend law and courts of justice to the Reservations.

“A simple thing, indeed, is it not? Does this seem to my reader, I wonder, as it does to me, obviously just, obviously wise, obviously expedient? Yet our legislators at Washington let it linger year after year, and we cannot get it done. We must demand of them that they no longer neglect it; that they abandon any attitude of obstruction upon this subject, any mistaken fancy that the Severalty Law has actually done all that has been made possible by it. I express the conviction not merely of one person, but of a vast number of the friends of the Indians, in declaring that the one most pressing and vital necessity to-day in this matter is that of bringing the Indians and all their affairs under the steady operation of law and courts. This is saying no new thing. Many of us who had the honor of advocating the Severalty Law before it was passed always coupled it with the demand for extending law to the Indians. This necessity has long been obvious; indeed, it sickens one to look back and see how uniform and how pressed has been the cry for this, during many years, as the thing most needful.

“Let me repeat some of these utterances. Nearly twenty years ago, in 1873, the Indian commissioner urged this matter in his report, and again, in 1874, pressed it with careful, specific recommendations for establishing a system of law among the Indians. In 1876 the Indian commissioner (J. Q. Smith) said in his annual report: ‘My predecessors have frequently called attention to the startling fact that we have within our midst 275,000 people, the least intelligent portion of our population, for whom we provide no law, either for their protection or for the punishment of crime committed among themselves. . . . Our Indians are remitted by a great civilized government to the control, if control it can be called, of the rude regulations of petty, ignorant tribes. Year after

year we expend millions of dollars for these people in the faint hope that, without law, we can civilize them. That hope has been to a great degree a long disappointment, and year after year we repeat the folly of the past. That the benevolent efforts and purposes of the government have proved so largely fruitless is, in my judgment, due more to its failure to make these people amenable to our laws than to any other cause, or to all other causes combined. I believe it to be the duty of Congress at once to extend over Indian Reservations the jurisdiction of United States courts, and to declare that each Indian in the United States shall occupy the same relation to law that a white man does. . . . I regard this suggestion as by far the most important which I have to make in this report.'

"In 1877 the wise and devoted Bishop Hare said, in a passage which was quoted at length by the Indian Commissioner in his report of 1883, with renewed recommendations: 'Civilization has loosened, in some places broken, the bonds which regulate and hold together Indian society in its wild state, and has failed to give the people law and officers of justice in their place. This evil still continues unabated. Women are brutally beaten and outraged; men are murdered in cold blood; the Indians who are friendly to schools and churches are intimidated and preyed upon by the evil-disposed; children are molested on their way to school, and schools are dispersed by bands of vagabonds; but there is no redress. This accursed condition of things is an outrage upon the One Law-giver. It is a disgrace to our land. It should make every man who sits in the national halls of legislation blush. And, wish well to the Indians as we may, and do for them what we will, the efforts of civil agents, teachers and missionaries are like the struggles of drowning men weighted with lead, as long as, by the absence of law, Indian society is left without a base.' In this same year (1877) Indian agents declared over and over again that a system of law on the Reservations was the great need. 'By far the greatest need of this agency,' said one of them, 'is civil law. Give us civil law and power to execute it.' In 1878 the Indian Commissioner in his report quoted Joseph, the famous and very able Nez Perce chief, as saying that 'the greatest want of the Indians is a system of law by which controversies between Indians and between Indians and white men can be settled without appealing to physical force. . . . Indians . . . understand the oper-

ation of law, and if there were any statutes the Indians would be perfectly content to place themselves in the hands of a proper tribunal, and would not take the righting of their wrongs into their own hands or retaliate, as they do now, without the law.'

"How many of my readers have ever read that wonderful, most moving story of this same Chief Joseph, sent by Bishop Hare to the North American Review, and published there in April, 1879? In introducing it the bishop expressed his own appreciation of it by saying: 'I wish that I had words at command in which to express adequately the interest with which I have read the extraordinary narrative which follows.' The emphasis that Joseph lays upon the need of law is striking. 'There need be no trouble,' he declares. 'Treat all men alike. Give them all the same law. Give them all an even chance to live and grow. . . . I only ask of the government to be treated as all other men are treated. . . . I know that my race must change. We cannot hold our own with the white race as we are. We only ask an even chance to live as other men live. . . . We ask that the same law shall work alike on all men. If the Indian breaks the law, punish him by the law. If the white man breaks the law, punish him also.' Bishop Hare enforces this request. 'Indian chiefs,' he says, 'however able and influential, are really without power, and for this reason, as well as others, the Indians should at the earliest practicable moment be given the support and protection of our government and of our law.' In March of the same year (1879) General Miles printed an article on the Indian Problem in the North American Review, in which he pressed the need of establishing law and courts of justice among the Indians. He quoted Chief Joseph's words that 'the greatest want of the Indians is a system of law,' etc., and he added: 'Do we need a savage to inform us of the necessity that has existed for a century?'

"In 1881 General Crook, General Miles and others as commissioners appointed by the President to investigate certain matters relating to the Ponca tribe, closed their report as follows: 'In conclusion, we desire to give expression to the conviction forced upon us by our investigation of this case that it is of the utmost importance to white and red men alike that all Indians should have an opportunity of appealing to the courts for the protection and vindication of the rights of person and

property. Indians cannot be expected to understand the duties of men living under the forms of civilization until they know, by being subject to it, the authority of stable law as administered by the courts, and are relieved from the uncertainties and oppression frequently attending subjection to arbitrary personal authority.'

'In 1884 Miss Alice Fletcher said, in a public address wholly devoted to the need of law on the Indian Reservations: 'Were the Indians as keen for crime as many believe them to be, not a human being would be safe in their midst during the present hiatus between the old tribal law and our failure to give the protection of the courts. Although matters are not at their worst, they are bad indeed, and it is almost futile to try to build up a people when the very stay and supports of industry and morality are lacking.' These remarks were accompanied by convincing illustrations of their truth, drawn from her experience among the Omahas. In Miss Fletcher's learned and thorough Special Report to the Bureau of Education on Indian Education and Civilization, published as a Senate Document by the United States in 1888 (page 142), she comments again upon 'the need for recasting the entire legal position of Indians towards the state and towards each other, and of permitting the laws of the land to be fully extended over all the various Reservations and tribes.'

"For many years that admirable association in Philadelphia, of which Mr. Herbert Welsh is Secretary, has urged this matter, and as early as eight or ten years ago had prepared a bill which embodied it. In a report of Mr. Herbert Welsh to his society, made in 1885, he presses (to quote his own words) 'the immediate introduction of law upon the Reservations.' For years also the Boston Indian Citizenship Committee has devoted itself to efforts for accomplishing this purpose. In February last it issued a memorial, in which the following language was used: 'The Boston Indian Citizenship Committee, in view of recent events at the West, renews its solemn appeal to Congress and the country for the immediate extension of the ordinary laws of the land over the Indian Reservations. . . . We desire to record our belief that this country has no duty towards the Indians so solemn and so instant as that of bringing these poor people under the protection and control of the ordinary laws of the land.' Year after year the same appeal has come from the Mohonk Conference.

“So long, so uniform, so weighty, so urgent has been this appeal for a government of law for the Indians, and yet the thing is not done. Why? Perhaps the chief reasons are three: (1) That there has been no one man in Congress who was deeply impressed with the importance of this particular step. Some men there appear to think the Severalty Law a finality, instead of one great step to be followed by others. (2) That the whole Indian question gets little hold on public men, and is crowded aside by tariffs and silver and president-making and office-jobbing and pension-giving. (3) That so far as questions of Indian policy get any attention, this is spent on matters of detail, and in administering and patching the present system. But, I may be asked, do you call all this effort for the education of the Indians and their religious teaching, and the improvement of the civil service among them—all these things matters of detail? Well, it would be an extravagance to say that, and yet sometimes one can best convey his meaning and best intimate the truth by an extravagance. I am almost ready to answer, Yes, I do. This, at any rate, I will say: It is as true now as it was fifteen years ago, when Indian Commissioner J. Q. Smith put it on record in his annual report: ‘That the benevolent efforts and purposes of the government have proved so largely fruitless is . . . due more to its failure to make these people amenable to our laws than to any other cause or to all other causes combined.’ It is as true to-day as it was fourteen years ago, when Bishop Hare said it first, and as it was eight years ago, when the Indian Commissioner quoted it, with approval, in his annual report, and seven years ago, when Miss Fletcher quoted and indorsed it, that ‘Wish well to the Indians as we may, and do for them what we will, the effort of civil agents, teachers and missionaries are like the struggles of drowning men weighted with lead, as long as, by the absence of law, Indian society is left without a base.’ It is as true now as it was thirteen years ago, when the Indian Commissioner quoted it from one of the ablest of the Indian chiefs, that ‘The greatest want of the Indians is a system of law by which controversies between Indians and between Indians and white men can be settled without appeal to physical force.’”

With such a sentiment on the part of all intelligent people familiar with the subject, in favor of giving to the Indians full

legal rights and remedies, it may appear strange, at the first glance, why provision has not been made by acts of Congress long since giving these sentiments practical effect. Several causes have contributed to this result, some of which will suggest themselves without reference being made to them here. The question that is always asked when this subject is under consideration, viz.: "Are not the courts of the states and territories in which the Reservations are situated courts of general jurisdiction, and cannot the Indians be heard in those in any case brought for or against them?" is perhaps the most important and difficult to answer. A sufficient answer is that in the vicinity of Indian Reservations and residences a feeling of hostility on the part of the whites approaching to bitterness is always engendered against the Indians; this feeling of bitterness and bias permeates the whole adjacent community and renders it wholly and absolutely impossible for an Indian to secure his legal rights before such a court and jury, so local in its character are the state and territorial tribunals having jurisdiction limited to the county ordinarily in which the Reservations are situated. So that while the Indian has some legal rights and remedies nominally in the local, state and territorial courts, he has none practically, and the laws of the State as to property and descent have no application and cannot be administered as to him, and the only remedy that suggests itself to your committee is to vest in the federal courts jurisdiction to hear and determine all cases arising on Indian Reservations. This jurisdiction, we think, should be conferred upon the circuit courts of the United States having jurisdiction in the state or territory in which the Reservation is situated, and should extend to all cases both at law and in equity arising on an Indian Reservation in any state or territory and to all crimes committed on such Indian Reservation, and to all questions hereafter arising between a band or tribe of Indians and the United States or any officer thereof.

The question whether Congress has the constitutional powers to vest this jurisdiction is important, but the committee are

unanimous in the opinion that Congress has this power, and that such jurisdiction should be conferred.

In coming to this conclusion the committee have not been unmindful of the rule laid down by the Supreme Court of the United States in the case of *The Cherokee Nation against the State of Georgia*, that an Indian tribe, within the United States, is not a 'foreign state,' within the meaning of the second section of the third article of the constitution, and cannot sue in the courts of the United States.

At this time it will be conceded by all, we trust, that the judicial power of the United States extends beyond the limits prescribed by section two of article three of the constitution, and must be co-extensive with the cases at law and in equity that may arise in the administration of the constitution and laws in any territory or place that is under the absolute and undisputed control of the United States. Such is the condition of all Indian Reservations. One member of the committee, Mr. Hornblower, who was not able to attend the meeting of the Committee, has expressed his views as follows :

"To illustrate my idea : Take the Pine Ridge Reservation in South Dakota, while within the boundary lines of the state of South Dakota it is within the exclusive jurisdiction of Congress as much as is the territory of Oklahoma or the District of Columbia. Congress has the same right to establish courts in the Pine Ridge Reservation of both criminal and civil jurisdiction as it has to establish courts in Oklahoma or the District of Columbia. Having such right it can exercise the right by conferring jurisdiction on the United States circuit or district courts. The name of the court is wholly immaterial. The United States constitution merely provides for a supreme court and such inferior courts as Congress may establish. If Congress can confer jurisdiction upon the proposed territorial court over the Indian Reservations, it can confer the same jurisdiction upon the existing Territorial courts and the existing United States circuit and district courts. At least so it seems to me."

The committee had under consideration various propositions, all looking to granting to the Indians all the legal

rights and remedies that the people of the state or territory in which the Reservations are located possess. The proposition to treat all the Reservations as one consolidated Indian Territory, so far as the exercise of judicial power is concerned, and then extending jurisdiction over all this territory to the territorial court of Oklahoma Territory, and adding two or more judges to that court, and dividing the various Reservations into classes and assigning these classes to different judicial districts in which nisi prius courts should be held, and providing that the judges of said court should sit in banc to hear and determine appeals received much consideration, and a report was prepared by one of the committee recommending this system. Others of the committee objected to this upon various grounds:

First—That it rendered our judicial system, already too complicated, more complicated and difficult to understand and practice.

Second—That it increased the federal patronage and the expense of the judicial department.

Third—That the legal rights and remedies would not be so well understood and administered by such courts as by the circuit courts of the United States, which are familiar with all the laws of the states and territories applicable to cases coming within their jurisdiction.

Fourth—That to organize new courts to exercise this exclusive jurisdiction would require a voluminous act of Congress, prescribing rights and remedies and rules of practice, all of which could be avoided by conferring the jurisdiction directly upon the circuit courts. Hence, this proposition was abandoned by the committee and the one recommended in the report herewith submitted was adopted in place thereof.

The committee therefore report the following resolutions and recommend their passage by the Association, viz.:

Resolved, That the American Bar Association recommend that exclusive jurisdiction be forthwith vested by Congress in the circuit courts of the United States and supreme courts of

the territories to hear and determine all cases at law and in equity that may arise, and to try all offenses that may be committed on Indian Reservations situated in any judicial district or territory, and to administer all estates of the inhabitants thereof in accordance with the laws of the respective states and territories in which the Reservations may be respectively located.

Resolved, That the American Bar Association recommend that such jurisdiction extend to all cases arising between any band or tribe of Indians and the United States or between such band or tribe and any officer of the United States, and that the amount of fees to be paid in any case to an attorney for Indians be determined in all cases by the court.

Resolved, That the Secretary of this Association transmit a copy of this report to the President of the United States, the Hon. Secretary of the Interior, the Hon. Commissioner of Indian Affairs and to each member of Congress, accompanied by a copy of the proposed act of Congress herewith reported.

JOHN B. SANBORN,
Chairman.

The form of an act conferring upon the Indians residing upon the Reservations in the various states and territories all the legal rights and remedies possessed by citizens of the United States.

An act to extend the jurisdiction of the circuit courts of the United States, and of the supreme courts of the Territories, to all cases civil and criminal arising on Indian Reservations, or between Indians and white men in the respective judicial districts and territories in which the Reservations are located.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. The Circuit Courts of the United States and the Supreme Courts of the Territories, shall have exclusive

original cognizance of all suits of a civil nature at common law or in equity arising between the inhabitants or occupants of, or upon the various Indian Reservations, in their respective circuits and territories, and all such cases shall be brought in the judicial district or territory in which the Reservation whereon such cases arise is located.

SECTION 2. The Circuit Courts of the United States and the Supreme Courts of the Territories shall have exclusive original cognizance of all cases not now existing and hereafter arising, whether in contract or in tort, between any band or tribe, or class of Indians, or any individual Indian and the United States or any officer thereof. Such cases shall be brought, heard and determined in the judicial district or territory where the plaintiff resides. All such cases shall be commenced by the plaintiff filing the complaint or petition, specifying the relief asked and the grounds thereof, with the Clerk of the Court in which the action is brought. The Clerk of the Court shall forthwith transmit to the Attorney General of the United States a certified copy of the petition or complaint, and the United States shall have sixty days thereafter in which to appear, plead and defend against said action, and thereafter such cases shall proceed to final hearing and judgment in the same manner as other cases in said court. Whenever in such causes judgment is rendered against the United States the Clerk of the Court shall transmit a transcript thereof forthwith to the Secretary of the Treasury, who shall without unnecessary delay transmit his estimate to Congress for an appropriation to pay the same. Appeals shall be allowed to either party from all final judgments and decrees in all cases civil and criminal brought under the provisions of this act in the same manner and to the same court as in other cases heard and determined in said courts.

SECTION 3. The Circuit Courts of the United States and the Supreme Courts of the Territories shall have exclusive cognizance of all crimes and offenses committed upon any

Indian Reservation located in any judicial district in the respective circuits, or in any Territory, and all such cases shall be heard and determined in the Circuit Court in the judicial district in which such Reservation is situated, or when located in a Territory, in the Supreme Court of such Territory.

SECTION 4. All the laws of the respective States and Territories in which any Indian Reservation is situated, or wherein an Indian resides, not in conflict with the constitution and laws of the United States, or with the provisions of any treaty, shall be extended to, and are hereby made applicable to all people inhabiting or occupying, or who for the time being may be upon any Indian Reservation, and said circuits and territorial courts in all matters pertaining to the administration and settlement of the estates of deceased persons, including the payment of debts and making final distribution of such estate, shall administer the laws of the State or Territory in which such Indian Reservation may be situated, and under such rules of practice as may be prescribed by said courts respectively.

SECTION 5. The Circuit Courts of the United States and the Supreme Courts of the Territories are hereby authorized and directed to adopt such rules of practice to carry into effect more fully the provisions of this act as the judges of the said courts may deem advisable and not inconsistent with the constitution and laws of the United States. All contracts or agreements by Indians to pay for legal services shall be void until approved by the court wherein the action is brought or services rendered.

SECTION 6. This act shall take effect and be in force from and after its passage.

REPORT
OF THE
COMMITTEE ON UNIFORM STATE LAWS.

To the American Bar Association :

Few regular legislative sessions were held last year of the states that had not already adopted, to a greater or less extent, the uniform laws recommended by the Conference. Consequently there is but little progress to report except the appointment of Commissioners on Uniform Laws by the State of Indiana, and the Territory of Arizona, making thirty-five jurisdictions in which Commissioners have been appointed. From the fifteen states and the District of Columbia, that have adopted the Negotiable Instrument Act nothing has been heard by your committee but commendation as to its practical working. Your committee believe, in view of the importance of the subject of uniformity and its demonstrated practicability, that more time and attention should be devoted to it at our annual meetings, and to that end, in the opinion of your committee, the Committee on Uniform Laws should be classified among our standing committees.

As there are still several states, territories and districts unrepresented in the Conference, there is need of continued strenuous action by this Association to secure commissions from these unrepresented jurisdictions.

At its last session, held here on Saturday, Monday and Tuesday last, the following Act on Divorce was recommended for adoption :

An Act to establish a law uniform with the laws of other states relative to divorce procedure and divorce from the bond of marriage.

SECTION 1. No divorce shall be granted for any cause arising prior to the residence of the complainant or defendant in this state, which was not a ground for divorce in the state where the cause arose.

SECTION 2. No person shall be entitled to a divorce for any cause arising in this state, who has not had actual residence in this state for at least one year next before bringing suit for divorce, with a bona fide intention of making this state his or her permanent home.

SECTION 3. No person shall be entitled to a divorce for any cause arising out of this state unless the complainant or defendant shall have resided within this state for at least two years next before bringing suit for divorce, with a bona fide intention of making this state his or her permanent home.

SECTION 4. No person shall be entitled to a divorce unless the defendant shall have been personally served with process, if within this state, or if without this state, shall have had personal notice duly proved and appearing of record, or shall have entered an appearance in the case; but if it shall appear to the satisfaction of the court that the complainant does not know the address nor the residence of the defendant, and has not been able to ascertain either, after reasonable and due inquiry and search, continued for six months after suit brought, the court or judge in vacation, may authorize notice by publication of the pendency of the suit for divorce, to be given in manner provided by law.

SECTION 5. No divorce shall be granted solely upon default nor solely upon admissions by the pleadings, nor except upon hearing before the court in open session.

SECTION 6. After divorce, either party may marry again, but in cases where notice has been given by publication only, and the defendant has not appeared, no decree or judgment

for divorce shall become final or operative until six months after hearing and decision.

SECTION 7. Wherever the word "divorce" occurs in this act, it shall be deemed to mean divorce from the bond of marriage.

SECTION 8. All acts and parts of acts inconsistent herewith are hereby repealed.

It may not be out of place in this connection, for your committee to say a word as to the purpose, wisdom and practicability and effect of this short, simple and most moderate act, which is the outcome of much deliberation and discussion, extending over three years' sessions of the Conference. The act proposed attacks directly, and we believe effectively, three of the greatest evils, considered from a legal standpoint, of the present condition of our various and conflicting divorce laws. First, it does away largely with the scandal of migratory divorces. Second, it prevents the wrong of speedy decrees against absent defendants who may be ignorant of any suit pending. Third, it does away with the inter-state confusion arising from some few states forbidding remarriage, while a great majority of the states permit it.

The first section will prevent a change of residence being made in order to procure a divorce for a cause that is not a ground for divorce in the state where the cause arose, but is a ground in the state to which the party moves. This measure will prevent each state from having its own citizens defying its laws by simply going temporarily to another state, obtaining a divorce there that could not be obtained in the home state, and then returning to the home state after having successfully evaded its law. Migratory divorces will thus be largely stopped, and each state will preserve its authority over the marital status of its own citizens.

The next three sections on residence and service hardly need explanation to a body of lawyers. "It is well known

that a fertile source of wrong-doing in divorce is afforded where divorce can be obtained without the knowledge of the other party. Theoretically, no divorce should ever be granted until the court has adequate proof that the other party has had notice of the pendency of the complaint."

The object of the first part of Section 4, is to secure this notice, and proof of it for the court. In practice, however, provision must be made for those cases where the opposite party cannot be found. Not to provide for such a contingency would simply be to place a premium upon concealment—the party desirous of preventing divorce would simply go into hiding, and then no divorce could be obtained, no matter how valid the reasons for granting it.* It seems to us that all reasonable means have been taken in this section, to guard against fraud. A perusal of the proposed bill will show that with the six months' notice required after suit brought, and the six months required before the decree or judgment becomes operative, at least a year must elapse before the divorce becomes final, in cases where the defendant is not personally served.

As to remarriage, we believe the views of Mr. Nelson, in his recent work on Divorce and Separation, vol. 2, p. 566, are almost universally shared by the profession.

"The evident intent of these statutes is to prevent the guilty party from entering into another marriage. He having been unfaithful to the obligations of the first marriage, it is presumed that he is unfit to enter into a second marriage unless he reforms. But such prohibition is in fact a restraint of marriage. It leaves at large a person who by false representations, may induce an unsuspecting woman to enter into a void marriage; or if this does not occur, the unfortunate defendant who cannot marry is tempted to continue adulteries without incentive to reformation. A prohibition which restrains marriage encourages adultery, leaves the party in a position to contract void marriages, and takes away a natural

* From Com. Rep. of Conference of 1899.

incentive to reformation, should be held contrary to public policy. These considerations are sufficient to justify the repeal of such statutes."

If it is objected that this law would render the time necessary to acquire jurisdiction shorter in some few states, it is to be remembered that, different from most uniform laws which require to be absolutely identical wherever adopted, the evident object of the bill and the result desired to be obtained would not render it necessary, in carrying out the intent of the act, to have that part of the act relating to the time of residence identical, or the present time of residence lowered, in any instance. As any one state can defeat, in some respects, the purposes of this act, by not passing it, as much as though twenty allowed speedy divorces without the safeguards prescribed in this act, it seemed to the Conference not wise to put the time limit of residence beyond that of the average of all the states.

Although this bill is simply a bill of procedure, it really goes to the substance of the whole matter. Not only has the law of procedure, or the adjective law, always had a profound influence upon the substantive law, but it becomes really a part of the substantive law in this instance.

The Conference has had under consideration a bill relating to the causes for divorce, but has not deemed it advisable to recommend it for passage at this time, first, because of the great divergence of opinion in regard to the nature of the marriage contract, and what are just causes of divorce, and secondly, because such a bill presented at this time with the procedure act, might tend to prevent any improvement in legislation on this important subject.

L. D. BREWSTER,
Chairman.

REPORT
OF THE
COMMITTEE ON PENAL LAWS AND PRISON DISCIPLINE.

To the American Bar Association :

Your Committee on Penal Laws and Prison Discipline are gratified to report at the outset, that there is a rapidly growing public sentiment throughout the states that all restriction or punishment of offenders should have as its basis reformation rather than retribution. Two methods of a reformative character are fast becoming general in this country, namely, parole and probation. Both are admirable and should be universally adopted. Wherever honestly tried and rigorously enforced they have proven successful beyond the most sanguine expectation. A Governor of one of the states in which the parole system is in full operation said in his annual message to the legislature in 1900 that out of all the prisoners paroled by the Board of Pardons in that state since the operation of the parole law therein—which covered a period of some years—not five per centum of the paroled had returned to crime. The very encouraging statistics given in the report of your committee in 1898 on the operation of the parole laws in the several states having such laws, continues to be sustained by experience to the present time. The wardens or board of control of every prison in the states in which a parole law is in force, in all cases commend the beneficial working of the same. Your committee cannot urge too strongly the adoption by the several states of parole acts based upon those in force in California, Massachusetts, Indiana, New York, Pennsylvania, Michigan, Minnesota, Nebraska, Ohio, Alabama, Illinois, Colorado, New Jersey, Utah and Wisconsin.

Such statutes, to be most beneficial in operation, should be left quite general in terms, so that they may be as flexible as possible in the operation thereof by the prison authorities.

Probation is practically parole before imprisonment. It is coming into great public favor as a reformatory system. Its operation in Massachusetts for some years has established the fact that it is entitled to a place in modern methods for the control of offenders. It may be that it will be found wise to confine it to first offenders and possibly to the minor grades of crime, but that it has come to be a part, and a useful part, of the treatment of those guilty of offences is beyond question. Probation in operation is exceedingly simple, but, like everything else, to be successful it needs careful attention and officials in sympathy with the object to be attained—the reformation of the offender.

Every criminal judge is distressed in many cases at being compelled to send the offender to prison, and yet to discharge him absolutely, or to suspend sentence without any supervision, he feels would be unwise.

Probation comes just at this point to furnish the method of disposition in the case.

Imprisonment is always humiliating and its results on self-respect always bad. It is quite difficult to reform after imprisonment. It is quite easy after the conviction and under the supervision of a probation officer, who allows liberty so long as the offender continues to deserve it and obeys the laws and the rules governing his probation.

Every person on probation has two incentives to avoid crime. First, his desire to retain the esteem and respect of his fellow citizens. Second, the constant fear of rearrest if he fails to live honestly.

In the probation officer, if he be a good one, the offender also has a strong assistant in his effort to redeem himself. He must see that officer or report to him frequently and he can have his advice at all times. He can advise against evil associations and habits that are injurious and which lead to

crime. To make such a law a success, as in anything else in life, those operating it must be in sympathy with it. The probation officer should be a firm, kindly man of unquestioned character and example.

The latest, and probably the most general and efficient probation law, is that adopted by the legislature of New Jersey at its last session. It is quite short and was intended to embrace all the best features of the act in Massachusetts, while it eliminated all unreasonable or troublesome restrictions upon the court or probation officer in working the act. The statute practically leaves the rules under which the offender is to be placed in charge of the probation officer, to the control of the court.

We attach as an addendum to this report a copy of the New Jersey statute as a form for other states to base similar legislation upon. We also attach hereto the rules which were adopted by the criminal courts under it.

These rules will be seen to be very few in number and quite simple, and not difficult of observance by the offender and entirely in the interests of his becoming a good citizen.

In connection with this matter of placing offenders upon probation, another statute has been passed by the legislature of New Jersey which so far as we are aware is without counterpart in any state. A study of the problem of fining offenders illy able to pay, and committing them in default of the fine and costs or fine or costs, has led thoughtful judges to question the wisdom of a system which puts the offender in jail to remain until he works out his fine, or until his poverty-stricken family, by depriving themselves, it may be, of the necessities of life, secure the funds and pay it. This act provides that the offender sentenced to pay a fine may be given a definite time within which to pay it, and in the mean time be discharged upon bail, or without it as the court may order. By the statute there is just as much punishment, if not more, as the fine is paid by the offender, and in the mean time he is able to earn something toward the support of his family and

possibly thereby relieving the poor fund of their support, and it also relieves the county or city of his support; as otherwise he would be held in jail to work out the fine, or for a certain number of days in lieu thereof. This act worked in conjunction with the Probation Act is very beneficial. By the rules adopted under the Probation Act the offender is required in all cases as a condition of his probation to pay the costs to the probation officer, say in sums of one dollar per week until all is paid. So far in its operation in New Jersey the effect is to collect costs never collected before, to leave the offender at large on good behavior, whereby he supports his family, while the county is relieved of his maintenance in jail and the funds paid from time to time to the probation officer within less than five months under the operation of the act have covered the entire costs of the probation system in the largest county in that state. The facts thus establish not only the reformatory character of the law, but economy, humanity and public relief in its operation.

The act relative to fines was suggested by the report of a commission appointed by Mayor Quincy in Boston to inquire by what method the city could be relieved of the support of persons committed in default of small fines, and of the families of the offenders often left destitute while the offender was held in lieu of the fine, or worse yet, half starved while the suffering ones saved from the scanty earnings of the wife and children sufficient to pay the fine imposed to discharge the head of the family, whose only fault might have been intoxication. Under this act relative to time payments of fines and costs, a much larger percentage of costs will be collected. If a fine is the proper punishment of the offender, the policy of the law should be to require the offender, to pay it; he will thus bear the punishment, and if he is required to earn it, and pay it, or to go to jail within a definite time, the end of the penalty is attained. The probation officer in one county in New Jersey states that in the short time this act has been in operation in that county, only one offender out of the fifty-

seven committed to his custody has defaulted in the payments. This fines act can be coupled with both the parole and probation systems, and the payment of all costs made a part of the conditional discharge. (A copy of the fines act referred to is attached hereto.)

In concluding this report, your committee desire to call attention to two facts worthy of note; first, that corporal punishment of convicts is in most of the states prohibited by law and should be in all; secondly, that almost universally the striped suit, except for punishment, has been abolished. Sing Sing prison, in this state, one of the last to retain it, decided to abolish the stripes only this present month.

One of your committee during last year visited many convict prisons in Europe and found that in none of them were the stripes used. Every warden declared that before reform can begin, self-respect must be restored, and that so long as the humiliation of the stripes remained, the men could not be approached on the lines of reformation by anyone. For punishment, the stripes should be used, but not otherwise. In one of the large penitentiaries of Ohio where the stripes are used for punishment only, there are but 67 convicts out of 2400 that are found in them, and the warden declares that the men would rather suffer almost any punishment in preference to being ordered into striped suits. Your committee have corresponded with the wardens of many of the leading penal institutions of the country and find that they universally advocate the removal of the stripes, and also of that kindred degradation, the lock-step in marching. This correspondence is too extensive to be read, or to attach as an addendum to this report.

One of the members of your committee attended the International Prison Congress, held during the present month at Brussels, and it is gratifying to note from the investigations of one member of your committee last year and of another this, that it can be stated as a truth that most of the states

of this Republic lead the countries of Europe in modern progressive penal laws and discipline.

In closing the report it may not be amiss to state that the report of your committee made in 1898 has been published by order of Congress, on the suggestion of the United States Commissioners to the International Prison Congress, and was the subject of discussion at the Brussels Congress just adjourned.

The labor and correspondence of your committee has been without cost to the Association and its second report is herewith submitted without recommendation other than that it may be continued to enquire further and report upon such subjects within the field of its title as it may deem of general public interest.

Respectfully submitted,

J. FRANKLIN FORT,

Chairman,

JOHN H. STINESS,

ROBERT W. WILLIAMS,

JOHN D. LAWSON,

MARTIN DEWEY FOLLETT,

Committee.

PROBATION LAW OF THE STATE OF NEW JERSEY OF 1900.

An Act to provide for the appointment of probation officers and to define their duties and powers.

Be it enacted by the Senate and General Assembly of the State of New Jersey :

1. The judges of the court of general quarter sessions of the peace in and for each county in this state are hereby authorized and empowered, if in their judgment the interests of justice will be promoted thereby, to appoint one officer to perform the duties of a probation officer, as hereinafter defined, and under the direction of said court; and in any county of

the first or second classes the said court may, the consent of the board of chosen free-holders thereof having first been obtained by resolution, appoint as many assistant probation officers, not exceeding three, one of whom may be a woman, as may be needed to carry out the purposes of this Act; each probation officer shall hold office during the pleasure of the court making the appointment.

2. Each probation officer shall, in the execution of his official duties, have all the powers of a constable under the laws of this State; he shall keep a complete and accurate record of each case committed to his care or investigated by him, in suitable books, to be provided by the board of chosen freeholders of the county for that purpose, which record shall be at all times open to the inspection of the court or any person appointed by the court for that purpose, as well as of all magistrates within the county, and the chief of police or other head officer of police of any city, town, township or borough within the county, unless otherwise ordered in any particular case or matter by the court appointing him.

3. The probation officer shall, whenever directed by the court, carefully inquire into the antecedents, character and offense of every person arrested for crime within the jurisdiction of the court appointing him; blanks for that purpose shall be prepared and filed in his office in each case for the use of the court and for reference.

4. In case the record of any person convicted of crime shall in the judgment of the court so justify, it shall be lawful for the court in which the conviction is had, instead of imposing the penalty provided by law for the offense, to suspend the imposition of the penalty, and to order the person so convicted to be placed upon probation under the care of such probation officer for such time and upon such conditions as the court in its order shall determine.

5. It shall be the duty of the court to establish rules and regulations for the government of the probation officer and of convicted persons committed to the care of such probation

officer, and to enforce the observance thereof by persons so convicted and committed to the care of the probation officer, by any process of law proper to be issued for the taking into custody or otherwise of any person after conviction of crime; and it shall be lawful for the court, at any time when it would appear that the interests of justice so requires, to impose the penalty provided by law for the offense for which any person may be committed to the custody of the probation officer, and to direct that such person shall enter upon the sentence when so imposed.

6. The compensation of the probation officer in each county appointed under the provisions of this act shall be fixed by the court, and when so fixed, shall be paid by the county collector from the treasury of the county upon a voucher approved from time to time by a judge of said court; *provided, however*, that it shall be within the power of the board of chosen freeholders of any county of the first or second class to fix the compensation of such probation officer where more than one such probation officer shall be appointed in any such county under the provisions of this Act.

7. In case of the absence or disqualification of any probation officer for any cause, any judge of said court may appoint one of the constables of said court, or some other person, as a probation officer pro tempore, who shall receive as compensation for each day's services a sum equal to the rate per day of the salary of the probation officer; *provided*, that the compensation so paid for any excess over thirty days' absence of any probation officer in any one year shall be deducted from the salary of such probation officer.

8. The actual expenses and disbursements incident to the proper performance of the duties of the probation officer shall be presented to the court in the form of an itemized voucher, and when the same shall be approved by the court the probation officer shall be reimbursed for the same from the treasury of the county.

9. Any person convicted of crime and released upon probation who shall violate the condition of his probation or the rules and regulations governing the same, or who shall reengage in criminal practices, or become abandoned to improper associations or a vicious life, may, by order of the court, be taken into custody and sentenced for his original offense, and in computing the period of his confinement, if imprisonment shall be imposed, the time between his release upon probation and his rearrest shall not be reckoned as a part of the term ; *provided, however*, that no person shall be so taken into custody or sentenced or resented under this act for any offense for which he may have been released upon probation after a period of three years has elapsed from the date of the original conviction.

10. This Act shall take effect immediately.

RULES GOVERNING PROBATION IN THE NEW JERSEY CRIMINAL COURTS.

FIRST.—He cannot, during the probation period, leave the county or State until notice be given to the probation officer and his approval is obtained.

SECOND.—If the costs are to be paid at stated periods as a condition of the probation, the terms of payment must be strictly complied with or report be made to the probation officer of a satisfactory reason for the failure.

THIRD.—He must abstain from evil associates, the visiting of saloons and the use of intoxicating liquors, and obey the law.

FOURTH.—He shall furnish to the probation officer all information desired at any time, and reply promptly by letter or personal appearance if required.

FIFTH.—If residence is changed the probation officer must be notified immediately.

SIXTH.—On the first day of each month he shall write and mail or deliver to the probation officer a letter stating present

residence and occupation, and the number of days employed the previous month, and the truth of the facts therein stated must be certified to by a parent or an employer or other person known to the probation officer.

SEVENTH.—A person on probation is liable to be taken into custody at any time by the probation officer, or other officer, upon the order of the court, and strict observance of all rules is the only safety.

FINES ACT OF THE STATE OF NEW JERSEY OF 1900.

A supplement to an Act entitled "An Act relating to courts having criminal jurisdiction and regulating proceedings in criminal cases" (Revision of 1898), approved June fourteenth, one thousand eight hundred and ninety-eight.

Be it enacted by the Senate and General Assembly of the State of New Jersey :

1. Whenever any person shall be convicted of a misdemeanor, and shall be sentenced to pay a fine therefor, it shall be lawful for the court to permit the condemned to go at large, with or without bail, for a definite time, or until such fine is paid, and if before or at the end of such definite time such fine shall be paid, the bail, if any shall be taken, shall be discharged by the clerk upon the filing of a certificate signed by the sheriff certifying to the receipt thereof; and for filing said certificate and discharging such recognizance of bail the clerk shall be entitled to receive a fee of twenty-five cents only.

2. If default shall be made in paying said fine, or fine and costs, or costs without fine, within the time so definitely fixed by the court, or within the time to which the court may, from time to time, extend it, then and in that case the court may order the defendant into custody to serve the sentence imposed, as if he had been originally committed at the time of the imposition thereof.

3. This Act shall take effect immediately.

REPORT
OF THE
COMMITTEE ON INDUSTRIAL PROPERTY AND
INTERNATIONAL NEGOTIATION.

To the American Bar Association :

Your committee respectfully states that it cannot make a full report at this time, and asks that it be continued until the next meeting, for the reason that certain treaties in regard to industrial property are now publicly known to be the subject of negotiation, and further, because the proceedings of the congress which has been recently held at Paris on the subject of industrial property are not now accessible to the committee and the Association; and lastly, because at this time the report of the Commission to revise the industrial laws of the United States, in view of its treaties and conventions, will then have been published.

The subject is one of interest and of importance to all members of the Association who are interested in commerce, and your committee believe that it should be presented to the Association in the light of facts which will not become public before the next meeting.

Respectfully submitted,

FRANCIS FORBES,
Chairman.

REPORT
OF THE
SPECIAL COMMITTEE ON TITLE TO REAL ESTATE.

To the American Bar Association :

The Special Committee on Title to Real Estate begs leave to submit the following report :

In compliance with the following resolution passed at the last Annual Meeting of the Association :

“ *Resolved*, That the Committee on Title to Real Estate be instructed to memorialize Congress in the name of the American Bar Association, calling attention to the evils shown in the case of *U. S. vs. Snyder*, 149 U. S. 210, and urge the proper legislation to remedy the evils complained of,” your committee prepared a memorial (a copy of which is hereto annexed), and the same has been presented to the Senate by the Hon. Chauncey M. Depew, who is a member of this Association, and to the House of Representatives by Mr. William Astor Chanler.

From a letter received from Mr. Chanler, and from interviews with other members of Congress, and general investigation, your committee is of the opinion that it will be of service in securing the end in view to authorize the committee to confer with officers of the Government and formulate and advocate legislation in the premises.

In conclusion, your committee begs leave to add that the memorial has received the approval of the Committee (on the amendment of the law) of the Association of the Bar of the City of New York ; of the Lawyers' Title Insurance Com-

pany of New York, and of the President of the Real Estate Title Insurance and Trust Company of Philadelphia.

Respectfully submitted,

FERDINAND SHACK,
JOHN DOUGLASS BROWN, JR.,
DAVID L. WITHINGTON.

August 30, 1900.

To the Senate and House of Representatives :

The American Bar Association, at its last annual meeting, adopted the following resolution :

“ *Resolved*, That the Committee on Title to Real Estate be instructed to memorialize Congress in the name of the American Bar Association, calling attention to the evils shown in the case of *U. S. vs. Snyder*, 149 U. S. 210, and urge the proper legislation to remedy the evils complained of.”

The evils referred to arise under Section 3186 of the Revised Statutes of the United States, which reads as follows :

“ Section 3186. If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount shall be a lien in favor of the United States from the time when the assessment list was received by the collector, except when otherwise provided, until paid, with the interest, penalties and costs that may accrue in addition thereto, upon all property and rights to property belonging to such person.”

The lien thus created is valid under the decision in the case above referred to, even as against a bona fide purchaser or encumbrancer in good faith, though he have no knowledge and no means of knowing of the delinquency on the part of the person from or through whom he acquires his title or lien.

In that suit an old lien for internal revenue taxes on property which had been used as a tobacco factory, was enforced

against a subsequent purchaser and possessor of the land, although that purchaser never knew or had reason to know that the land had ever been so used, or that any taxes were unpaid.

The statute which thus gives a lien upon all property and rights to property belonging to the person in default in paying the internal revenue taxes referred to in the above mentioned section of the Revised Statutes, makes no provision for filing or recording any notice appraising intending purchasers and encumbrancers of the claims of the Government; and innocent purchasers and encumbrancers are thus subject to possibility of loss without being in any way at fault.

The American Bar Association accordingly petitions Congress to adopt such legislation as will prevent the hardships referred to.

Respectfully submitted,

The American Bar Association, by

FERDINAND SHACK,

JOHN DOUGLASS BROWN, JR.,

DAVID L. WITHINGTON,

Committee on Title to Real Estate.

Dated March 10, 1900.

REPORT
OF THE
COMMITTEE ON THE CELEBRATION OF JOHN
MARSHALL DAY.

To the American Bar Association :

The committee appointed under resolution of August, 1899, with reference to the proposed celebration of "John Marshall Day" on Monday, February 4th, 1901, beg leave to report, as follows :

The first work of the committee consisted of an interchange of views by correspondence between the various members of the committee in all parts of our country. The members were so widely separated that it was deemed proper to appoint an Executive Committee, of a smaller number, in order that the details of business might be more conveniently and promptly transacted. With the consent of the entire committee the following members were appointed as such Executive Committee :

EXECUTIVE COMMITTEE, AMERICAN BAR ASSOCIATION.

W. W. Howe, ex-officio, Louisiana; Adolph Moses, ex officio, Illinois; C. F. Libby, Maine; Simeon E. Baldwin, Connecticut; John S. Wise, New York; R. Wayne Parker, New Jersey; S. P. Wolverton, Pennsylvania; Anthony Higgins, Delaware; John S. Wirt, Maryland; Jackson Guy, Virginia; W. W. Van Winkle, West Virginia; Henry E. Davis, District of Columbia; William Lindsay, Kentucky; A. J. McCrary, Iowa; Burton Smith, Georgia.

Mr. Adolph Moses, of Chicago, was requested to act as Secretary of the committee.

Following the mandate of the resolution under which the committee was appointed, an address was issued on the 4th of February, 1900, and through the courtesy of the Associated

Press it was printed on that day in all the newspapers of the United States which are subscribers to that institution, and it appeared in about 1,000 journals, thus giving a full notice of one year for the preparation of the centennial. The address thus issued and published is as follows :

ADDRESS OF THE NATIONAL COMMITTEE OF THE AMERICAN
BAR ASSOCIATION ON "JOHN MARSHALL DAY."

New Orleans, February 4, 1900.

To the Bench and Bar of the United States :

By direction of the American Bar Association, a committee composed of one member from each State and Territory, and from the District of Columbia, has been appointed by the Association in reference to the proposed celebration of "John Marshall Day," to take place on Monday, February 4, 1901, being the first centennial of the installation of that eminent jurist as Chief Justice of the United States. A commemoration of this event, and of the splendid career of Marshall in the great office which he adorned for more than thirty-four years, cannot fail to be an occasion of profound interest and importance to the American bench and bar. Soldier, student, advocate, diplomatist, statesman and jurist—he was one of the finest types of American manhood in its best estate. His fame is the heritage of the nation, and it is befitting that the whole country should celebrate the appointed day.

In the language of Judge Story, when voicing the sentiments of the great court on the official announcement of Marshall's death, "his genius, his learning and his virtues have conferred an imperishable glory on his country, whose liberties he fought to secure, and whose institutions he labored to perpetuate."

He was a patriot and a statesman of spotless integrity and consummate wisdom. The science of jurisprudence will forever acknowledge him as one of its greatest benefactors. The Constitution of the United States owes as much to him as to

any single mind, for the foundations on which it rests, and the expositions by which it is to be maintained; but, above all, he was the ornament of human nature itself, in the beautiful illustration which his life constantly presented of its most attractive graces and most elevated attributes.

The committee have been charged with the duty of publishing this address to the legal profession of the United States; also, with the further duty of preparing suggestions for the day on the part of the state, city and county bar associations and other public bodies in the United States.

The committee were also charged with the duty of requesting the good offices of the President of the United States in recommending to Congress the propriety of observing "John Marshall Day" on the part of Congress and other departments of the Government of the United States, and of memorializing Congress to observe befitting ceremonies in honor of the great Chief Justice.

It is proposed that commemoration services be held at the national capital, under the direction of the Supreme Court of the United States, with the aid and support of the co-ordinate branches of the Government.

It is also expected that the day be properly observed on the part of all state and national courts by the cessation of judicial business, and that all state, city, and county bar associations participate in proper exercises in such manner as to them shall seem most appropriate.

Similar ceremonies are recommended to be held in all American colleges, law schools, and public schools, to the end that the youth of our country may be made more fully acquainted with Marshall's noble life and distinguished services.

The American Bar Association leaves the execution of this national celebration in the hands of the courts and the public bodies named, and the committee expresses the sincere hope that the celebration be national in its character and imposing

in its extent and fervor, and that it may have the hearty support of the secular and legal press of our country.

The active co-operation of the respective Vice-Presidents and members of local councils appointed by the Association, with the respective members of the National Committee, is respectfully requested and expected.

On behalf and by authority of the National Committee.

WILLIAM WIRT HOWE, *Chairman.*

ADOLPH MOSES, *Secretary.*

On the first of March, 1900, a meeting of the Executive Committee was held in the city of Washington, at which meeting the Bar Association of the District of Columbia was also represented by one of its prominent members, who was at the same time a member of the Executive Committee. A general plan was formed and adopted respecting a celebration to be held at the capital of the nation. In co-operation with the Bar Association of the District of Columbia, that Bar Association has appointed its committee for this purpose—its President being the Chairman. The plan thus formulated and published is substantially as follows, namely: That a meeting should be held in the daytime at some convenient place in the city of Washington, if possible, in the hall of the House of Representatives, at which the Chief Justice of the United States should be invited to preside and to open the exercises, and to which the President of the United States with his cabinet, the members of Congress and other principal officers of the Government should be invited, and that an oration should be delivered by a prominent member of the American Bar.

The Executive Committee waited upon the President of the United States and were received with great kindness and courtesy, and the President expressed warm interest in the plan, stating that he would attend the ceremony, and would mention the subject in his message of December, 1900. The Executive Committee then waited upon the Chief Justice, who expressed equal interest in the subject and kindly consented to

preside on the occasion named and to open the exercises as presiding officer.

The committee takes pleasure in further reporting that the Hon. Wayne Mac Veagh, formerly Attorney-General of the United States, and Minister to Italy, has consented to deliver the oration on this important and interesting occasion, and we have no doubt that his address will be worthy of the subject.

It was further arranged that on the evening of February 4th, 1901, there should be a banquet in the city of Washington, to be followed by brief addresses appropriate to the occasion.

Following the spirit of the resolution under which we were appointed, and of the address that was issued on the 4th of February, 1900, your committee has called upon the various Bar Associations throughout the United States and urged them to arrange for local celebrations on the same day. The responses to our invitations have been most gratifying. Without going into full particulars it may be stated generally that local celebrations of an appropriate character, by meetings, orations, proceedings in open court, and banquets, will be had in almost every, if not every, state and territory of our country on the same day. In many instances prominent universities, law schools and public schools will participate in the celebration, and it is hoped that every court in the country will adjourn in honor of the day in such way that all who are interested may participate in the public ceremonies. At this date we are assured that "John Marshall Day" will be properly observed in some manner in the following states and territories: Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Louisiana, Kansas, Maine, Maryland, Massachusetts, Michigan, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin.

It is expected that the subject will be taken up by the Vermont Bar Association in October next, and we have no doubt

that the other states and territories not mentioned above will respond favorably by the 1st of November.

It is proper that we should recognize the courtesy and valuable services furnished the committee by the Associated Press in publishing the address in all of its newspapers throughout the country, and also the kindness of the West Publishing Company, of St. Paul, Minn., in publishing in its seven Reporters the original proposition formulated by Mr. Adolph Moses and adopted by the Illinois State Bar Association, and also the address of this committee.

In this connection it may be proper to mention that at the request of our Secretary, Messrs. Callaghan & Company, of Chicago, have republished the address of Horace Binney, delivered at Philadelphia in September, 1835, on the occasion of the death of Chief Justice Marshall and have distributed several thousand copies in honor of "John Marshall Day." It should also be stated that Messrs. T. H. Flood & Company, of Chicago, upon like request, have issued a pamphlet containing the orations of Chief Justice Waite and William Henry Rawle, of Philadelphia, delivered in May, 1884, on the occasion of the unveiling of the statue of Marshall in the city of Washington. All of these publications contain also the address of your committee. The committee was also informed by the Secretary of the Lawyers' Co-Operative Publishing Company of Rochester, that they will republish the celebrated address of Mr. Justice Joseph Story, delivered in Boston in October, 1835, upon the life-work and services of the great Chief Justice.

The Illinois State Bar Association has also published several thousand copies of the pamphlet entitled "How to Celebrate John Marshall Day," containing also a bibliography of the life and works of Marshall, and also the address of your committee.

We again invite the active co-operation of the respective vice-presidents and members of the local councils of this Asso-

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ciation with the respective members of your committee in carrying out the plan outlined above.

At a meeting held by your committee on the 28th of August, 1900, the following resolutions were suggested, and the Association is respectfully requested to adopt them :

Resolved, That the American Bar Association respectfully requests the courts of our country to adjourn on the 4th of February, 1901, in honor of the memory of John Marshall, and that the proceedings on such adjournment be spread upon the minutes of the courts.

Resolved, That the pamphlet issued with the approval and sanction of the Illinois State Bar Association, entitled "How to Celebrate John Marshall Day" is a useful suggestion of the various methods in which such celebration may be made appropriate and impressive.

Resolved, That the Committee on "John Marshall Day," appointed under the resolution of the Association in August, 1899, be continued until the purposes of its formation shall have been fully accomplished.

It is hardly necessary for your committee to emphasize the importance of the proposed commemoration. The subject speaks for itself, with suggestion and sentiment familiar to every American who cares for the law or the history of his country, and we look forward with confidence to a celebration of rare and profound interest.

WILLIAM WIRT HOWE,
Chairman.

ADOLPH MOSES,
Secretary.

Saratoga, August 30, 1900.

PROCEEDINGS
OF THE
SECTION OF LEGAL EDUCATION.

Wednesday, August 29, 1900, 3.30 o'clock P. M.

The Section of Legal Education was called to order by the Chairman, Charles Noble Gregory, of Wisconsin.

The Chairman delivered his address.

(See the Address at the end of these Minutes.)

The Chairman :

The Section will now have the pleasure of listening to a paper by William Draper Lewis, Dean of the Law School of the University of Pennsylvania, on "The Proper Preparation for the Study of Law." I have now the honor and pleasure of presenting Mr. Lewis to the Section.

(See the Paper at the end of these Minutes.)

The Chairman :

According to the custom of the Section, the papers which have been read are open for discussion at the close of their reading.

H. H. Ingersoll, of Tennessee :

Mr. Chairman: This paper ought to, and doubtless will, stimulate a general discussion of the subject of admission to the Bar, and as there happen to be with us some gentlemen who are here rather as guests of the Section—at any rate, who have attended the meeting of the law schools yesterday on the invitation of the Section—who are not members of the Association, I move the adoption of this resolution :

Resolved, That the Section of Legal Education heartily invites all the representatives of law schools attending this meeting to exercise and enjoy the privileges of the floor.

The motion was adopted.

On motion of S. C. Bennett, of Massachusetts, the Chair appointed the following Committee to Nominate Officers :

S. C. Bennett, of Massachusetts ; Henry St. George Tucker, of Virginia ; John H. Wigmore, of Illinois.

H. H. Ingersoll, of Tennessee :

Mr. Chairman: The paper which has been read assumes the attitude of the idealist. I very much doubt whether it will commend itself to the practical lawyer, and yet, as the essayist carried us along through the subject, I confess I was somewhat inclined to yield the first antagonism I felt, and to say that the course which he had selected for preliminary education was one which would probably give the best result to the law graduates. Some of us who are engaged in law teaching, and have found that our best graduates—our best students, I mean—have never even taken a high school course, but are men who have gathered up learning under difficulties, and have passed through a primary education in the miserable way in which it is given in some of the outlying country districts, but who, feeling the eagerness within them to know something, have acquired what learning they have from such newspapers as they could get and such school books as they could borrow, and who have come to the law school at thirty—I say, those of us who, with the experience of that kind, have found that these men furnished the best material, are sometimes inclined to doubt whether it is best to insist upon any preliminary requirements whatever. I know, sir, that this view is not consistent with the idea prevalent in the profession. I am aware that I am somewhat heretical upon the subject, owing to my experience and observation in certain portions of the country. I cannot think that a rule which would apply to the University of Pennsylvania, or to Harvard or Yale or Columbia, would be enforceable in Montana or Texas or Tennessee or Florida or, perhaps, some other portions of the country with which I am not so familiar. It is, therefore, not a theory which we have to deal with, but a condition ; and while I cannot doubt that the ideal preliminary course has been

practically and very effectually instituted by the essayist, I have grave doubts whether in these times it is possible for us to prescribe any such preliminary training as the one which has been suggested.

Albert H. Walker, of New York :

It has occurred to me to inquire what would have been the effect upon the bar of the United States, if the ideal and even somewhat artificial standard that is advocated by the gentleman who read the paper on legal education, had been applied during the last one hundred years. What names would have been stricken from the roll of the American Bar? Among others Patrick Henry, Abraham Lincoln, George F. Edmunds, Roscoe Conkling. Twenty years ago an inquirer who looked through the history of the legal education of the most distinguished lawyers in the United States Senate, found that without exception none of them could have passed the examination necessary to admission to Harvard Law School. Look at the bench. What lawyer has reached more distinction on the bench in America in the last quarter of a century than Samuel F. Miller? Samuel F. Miller was an entirely self-taught Kentucky boy. His original professional education was in that of medicine. He became a country doctor and becoming disgusted with practicing medicine in the mountains of Kentucky turned his attention to jurisprudence, and, having educated himself somewhat, removed to Iowa and immediately bounded to the first rank of the profession, and in a few years reached the bench of the Supreme Court of the United States and adorned that place for a quarter of a century with extreme ability. Now it is clear enough to my mind that fitness is what we require. The lawyer I think is born before he is made, and unless he is born he cannot be made. So that the standard of examination which I think would be more ideal than that suggested by the gentleman who read the paper, would be a careful inquiry into the quality of mind, the natural endowment, which a candidate for the bar possesses. I have in mind now, young men who within a few years after

graduating with honor in colleges have taken law courses and have reached the bar and have made absolute failures there. Why? Not because they were not well endowed by nature with brain, for they were; but because they did not have the particular kind of mental ability to attain success at the bar. So that I think the first inquiry that ought to be made of a candidate for admission to a law school is whether or not nature gave him the particular kind of ability necessary to enable him to master a legal education and to solve legal problems. You know, one great controversy of late years has been as to the authorship of Shakespeare's plays. Everybody agrees they are the greatest records we have of human genius and ability, and the best scholars who have devoted themselves to solving the problem as to who wrote them have told us they were written by William Shakespeare, of Stratford-on-Avon, an uneducated man, and some of not inferior critical ability have ascribed them to Lord Bacon. Now Lord Bacon was undoubtedly a learned man. He could pass an examination for almost anything, but could he write the Shakespearian plays? Did nature give him that kind of ability? There is many a man who is well endowed by nature to be a professor of Latin, well endowed by nature to be a historian, or a chemist, or an electrician, who is not at all endowed by nature with the ability to be a successful lawyer. The trouble is with the young man's original endowment.

So I think if we raise the artificial standard and refuse admission to our law schools to persons who cannot present diplomas from high schools and colleges, we shall in the future, as we certainly would have done in the past, turn away from the avenues to success and fame now and then a legal genius. Some provision ought to be made for those who are particularly endowed by nature for the legal profession. What would this country have lost if Abraham Lincoln had been kept away from the bar, and he certainly would have been kept away if any artificial standard had been enforced in his case; but when he did reach the bar, through the back door, as many a good

lawyer did in Illinois in the early times, he immediately justified the result of evolution in his particular case and finally reached, as I think, a logical power which has never been equaled by any lawyer in America. His learning was doubtless less than that of many others, but his legal powers were superior, as I suppose, to those of any other member of the bar. So that I fear if this modern tendency be permitted to apply an artificial standard, be it however high or wisely chosen, to those who seek an opportunity to become lawyers, it will sometimes give abundant entrance to people who can conform to that artificial standard while they cannot conform to the natural standard, and will sometimes turn from the glad-some paths of jurisprudence those whom nature intended to be lawyers.

C. G. Fall, of Massachusetts:

I feel very much impressed by what the last speaker has just said, and I think his remarks, taken in connection with the paper of Prof. Lewis, indicate a certain truth which we may glean from the point of view that has been brought before us to-day. For instance, Mr. Lewis, in his paper, points out that the lawyer must be able to follow a tendency, must pursue a tendency, and see what it is, where it is going, and discriminate it from other tendencies; and that unless he has that capability, he does not possess the legal mind, and is not one of those who can succeed in the law. The gentleman who has just spoken has shown us very clearly that a great many men who do not have that particular capability still might be able to pass a certain artificial examination which would cover a large scope and variety of topics, and yet bring more or less discredit upon the law because they fail to possess the natural tendency.

Now, Mr. Chairman, I think if we can combine and put together the proposition laid down by the gentleman who read the paper and the point of view laid down by the gentleman who has just taken his seat—if we can make a synthesis of those two things—it seems to me we can get at just what is sought

to be accomplished here. I am talking about the idea—not about what is practical, but about what we would like to get at if we can do it. Now, if there was some way that a student, when thinking of entering upon a course of law—whether or not you apply this artificial examination on history and geometry and the Lord knows what; I pass that by—but if there could be some way that the natural fitness could be inquired into, would not great good be accomplished? That is, suppose the student could be examined first by some good lawyer, some good judge of human nature, in such a way that the student might not know he was being examined, and yet the examination be going on just the same, and then let the student be taken in hand by a second examiner, and then by a third, and let each of those examiners write down their opinion or mark as to the candidate; and then provide that two out of the three should determine whether that man had the natural qualifications to enter upon the study of law. That examination would not go into history or geometry or geography or science at all. It would be simply an examination to find out whether or not the candidate who sought to study law was able to understand the meaning of a general profession, able to think from a legal point of view. Many come into the study of the law who have not that gift of nature, so that they cannot acquire any attainments in the law, no matter how great their acquirements in other directions may be.

I suggest that what Mr. Lewis has stated in his paper and the criticism made by Mr. Walker bring us logically to combining the two in an examination of natural fitness, if we are going to follow this thing out to where it logically leads.

John Nicolson, Jr., of New York:

As one of the younger members of the Association, I would like to say that I think this preliminary education is of the greatest importance, and I speak of it from the standpoint of the young man. That is to say, it is in justice to him that it should be required. After he has gotten into the business of life there is no opportunity for acquiring that training of

the mind and that knowledge of facts; and it seems to me that knowledge of facts is being lost sight of in this discussion of training. I say there is no opportunity for his acquiring these—certainly not the same as in the earlier days before he becomes a full-fledged lawyer.

Now the tendency of this paper has been rather to discourage this wider acquaintance with physics—with facts. The capacity of noticing the tendency of things has been spoken of, but I think this important function of the lawyer has been lost sight of—the getting of facts. For instance, in the cross-examination of a witness, to know the relation of the testimony to the outside world, the physical world—that, I think, is necessary. I recall being present upon an important trial which involved the decision of the question whether or not a valve which connected a great steam boiler with a smaller steam boiler just above it, was open or shut. It was a question of damages caused by the bursting of the boiler. With great astuteness the lawyer for one side urged that he was sure the valve was shut because if the steam had been on in both boilers at the same time both would naturally have burst, the pressure being the same. The lawyer on the opposite side happened to have a sufficient knowledge of physics to know that while the pressure brought out was the same, the smaller boiler, not having such a pressure upon it, would not necessarily burst under the same head of steam.

So far as the suggestion that has been made is concerned, that we test the capacity of the young men, it seems to me that is thoroughly impracticable. The capacity of a young man will soon be tested in the affairs of life, and his generation will test him as to whether or not he has those capabilities which are necessary for success.

J. E. Gardner, of Maine:

I may have misinterpreted the purpose of this paper, but I did not suppose the subject of discussion was the requirements for admission to the law school or admission to the bar, but I supposed it was this: Suppose Abraham Lincoln had come

to you and said, "I have got three years to study, and I want to be a lawyer; now what shall I study—shall I study Latin, Greek, mathematics or physics?" That I suppose is the scope of this paper. Assuming that your student has some time to study, and he wants to be a lawyer, what shall he study?

If my interpretation of the paper and of the subject is correct, much of the preceding discussion is not wholly to the point. I did not suppose anybody would want to shut out from the bar Abraham Lincoln or Judge Miller; but I must remark in passing that I think the experience of most of us is that at the bars with which we are familiar, taking our country over, the leaders are the men who have had preliminary training. That is the rule. Of course there are striking exceptions to it.

I have little to say by way of criticism of this most admirable paper. I was glad that a man stood up and told us that there was no use of studying Latin for the purpose of translating the occasional Latin phrases that we might run across. How many of us have been told that we must study Latin so that we can translate an occasional phrase in the text book? How absurd that one should spend two or three years studying Latin for that purpose, and then not be able to translate it at all.

But I do think that my brother Lewis somewhat underestimated the value of mathematics as a study. It seems to me that any study that makes a man do a bit of honest concrete thought is an extremely good preparation for legal study, and I believe that the study of geometry calls for more brain power than the study of Latin or, if I may be permitted to say it, the study of history as it is ordinarily pursued. When a man comes to the bar, and gets a good practice and does anything, he has to apply some very strong, clean, direct and honest thought; and I believe that the study of mathematics will help a man very largely to use his brain, and if a man knows how

to use his brain, he is pretty well prepared, I think, for the study of law.

Mr. Rosenberg, of District of Columbia :

I hesitate to advance a theory which has been dwelling in my mind for quite a time, but it appears somewhat adverse to that which has been recommended by the gentleman who has read the paper, and that is, that we need to exercise discrimination regarding the means we adopt with reference to these requirements. I have had the good fortune to be a graduate of the University of Georgetown, in the District of Columbia, in the Law Department, in which they require no test whatever, and my experience has demonstrated to me that a fair sprinkling of the prize winners, the most earnest workers and the best students, are those who have received no college degree. In the observations that I have made, it has followed out the fact that those men who have taken post-graduate degrees in the law department are the men who entered there without any previous college training.

The suggestions of the gentleman that preceded me are very forcible, I think. If we take a man, on the one hand, who has studied three or four years, and has received his collegiate degree, if he has made a study of Latin or if he is perfectly competent to solve a mathematical problem, and then take a man, on the other hand, who has devoted the same length of time to a commercial calling, who has been in a clearing house or otherwise commercially engaged where he has met the world as man to man, I say that the latter is more capable, speaking generally, of entering a law school than the man who has acquired a prior collegiate education. I would therefore recommend that we proceed with very great caution before we make any positive recommendation that a man should have a collegiate degree before we admit him into our ranks to take up the study of law.

N. W. Hoyles, of Canada :

Mr. Chairman : I agree with one speaker in his suggestion that there should be a test made as to natural capacities ; but.

as has been pointed out, how are you going to make that test? What method have you, except as to the actual practice, whether a man is going to be a success as a lawyer or not? I have known men at college who seemed to have every capacity to fit them to become lawyers, and they have gone to the bar, and then become dismal failures; while, on the other hand, I have known men who seemed below them in the earlier part of their lives who surpassed them because they had that tact, that insight into character, that method of solving legal problems and the ability to determine whether a witness is telling the truth or not, which are very important requisites, as you know, to success at the bar. If you could test a man, and find out whether he has the proper capacity to fit him for the law, you would, of course, be doing him a very great benefit.

The answer to the statement about Abraham Lincoln was very well put by Lord Russell once. He said there are men who are crowned by the capacity for success, but it is impossible to argue from these exceptions, and the general run of men are the better for education. The general run of men are improved by a liberal education, and we are dealing not with the great mountain tops, but we are dealing with the ordinary level of humanity, and we have to take things as we find them, and we must recognize that education is for us commonplace people. The other answer that is made to that is: True, Abraham Lincoln succeeded without the education that is now required of persons entering the bar. Lord Russell pointed out how much greater might have been the mark left by some of these men upon their generation if they had had the proper preliminary education. It was said of that great judge, Erskine, who was a success at the bar and who was a success as Lord Chancellor of England, that one always felt in his dealings with cases that he had not received the proper legal training, that although he was a successful counsellor and was in many ways a successful judge, owing to his enormous common sense, yet his judgments lacked that perfection that would have characterized them had he been properly trained.

True it is that he would have succeeded in any event, but he would have succeeded infinitely better if he had had the proper preliminary training.

It is said that the work that should be done preparatory to entering upon the study of the law should be such as has a special bearing upon that study. I must confess that I differ from that. I think we all concede that the work of a practicing lawyer is not widening to the mind. It does not tend to broaden a man. On the contrary, we get into a narrow groove, and the tendency is rather to be narrow-minded than to be broad-minded. To guard against that, my idea is that you should give at the outset a broad and a liberal education, that you should lay your foundation broad and deep; and for my own part—I may perhaps be taking an ideal, sentimental kind of view—I would rather exclude the student altogether from matters bearing upon his legal training hereafter, and give him instead the general knowledge which would tend to correct the undoubted tendency that the practice of the law has to narrow and degrade, so to speak, the minds of those who practice it. Therefore I think every branch of human knowledge should properly come in the preliminary education. “*Homo sum ; nil humani a me alienum puto,*” was the saying of one of the ancient poets. I think that applies preeminently to the study of the law. We study Latin because it is in the first place a splendid training for the mind, because it introduces us to stores of wisdom and eloquence which can be best reached, I think, in their original tongue. We study Latin because it enriches the mind and fits it for that play of language, for that descriptive power, for all those graces which make the successful counsellor and the successful man. If it were merely a question of translating some dog Latin which has been embodied in a senseless maxim, then I would say, away with it, but we study it because of the magnificent intellectual effect it has. I entirely agree that mathematics ought to be studied. Physics, of course, as the illustration shows and as any one who practices nowadays knows, when so many mechanical and patent

questions come up, is something that every practicing lawyer ought to know. In fact we might go through the whole round of human knowledge and touch nothing which would be out of place for the practicing lawyer to know.

I think we cannot lay down any definite rule as to what a lawyer should have as a preparation for the study of the law. My idea is that we should seek in every way to inaugurate and inculcate a broad general training, and that we should confine ourselves after a young man begins to study the law to that which is best adapted for the particular profession which he has chosen. Let us widen up as much as we can at the outset. It may be that for some it is unnecessary; it may be that some will rise above those who have had the best education, and one of the puzzles to teachers is to find that sometimes men who have not had a college education succeed the best. But we are to legislate for the common masses, and the general result will be to increase more and more the general usefulness of our profession and to fit us more and more for that distinct place which the profession already occupies in public esteem.

William Draper Lewis, of Pennsylvania:

If I may be permitted to answer one or two of the suggestions which have been made here, I will say in respect to the first suggestion, that while the preparatory education which I suggested might be right, it was not practical in certain parts of the country, and that the education which Harvard or Columbia or the University of Pennsylvania might prescribe was beyond that which might be obtainable in Montana or Tennessee; I quite agree to that. If you noticed, however, I addressed my remarks primarily to those law schools which have already reached a standard of requirements which is equal to the best academic education that can be obtained in their part of the country, and the object of the paper was to find out how we can best accomplish that. I acknowledge that where you have a section of the country in which the law schools have not yet reached that standard, their practical problem is

how to reach that standard, and until they reach it, they have nothing to do with the suggestions made in the paper; their problem is to get up to this standard. The paper was primarily addressed to all schools which had already reached that standard, which is true of nearly all the schools in the north and north-eastern portion of the United States.

The second suggestion which has been made, which was referred to by another one of the speakers, was in regard to Lincoln. I think those of us who are fighting for the cause of a better legal education have certainly as much respect for Lincoln as anyone else, and yet we too frequently hear a great deal of that example, and I am sure that Lincoln himself would not have applied it. In the first place the question was asked: Supposing you had these requirements for one hundred years, would you have kept out Lincoln? Certainly not. At the last commencement of the University of Pennsylvania I had very great pleasure in awarding one of the prizes to a member of the graduating class who arrived in this country not only without any money but without any clothes, having escaped from a Russian vessel, and that man had not only supported himself but he had graduated from the Yale Scientific School and subsequently came to us, and while he did not stand at the head of his class, he did write the best essay which was written during the year. Another man, who stood second or third in his class, was a common laborer twelve years ago in a city in the western part of Pennsylvania. That man acquired a college education and came to the law school and graduated well up in his class. I think you will find that all the large law schools have such examples every day. Men like Lincoln are not kept down by requirements of that kind. It is true that had Lincoln been born in the West and remained on a farm under the conditions which then existed, he could never have acquired this education, but if he had been born in New York and it had been necessary for him to master these different subjects which I have mentioned, he not only would have mastered them but he would have gone further. I do

not believe that one of the requirements which have been mentioned would have prevented anyone with real ability from rising, and perhaps Justice Miller would have been even a better and greater lawyer than he was if he had had the opportunity of this earlier education.

There is one fact, however, that has been brought out about Lincoln, and that is, that he had a wonderful knowledge of human character. If you will look at his legal business, the trial of small causes on a country circuit, great knowledge of law such as is necessary to do the business which goes on in our larger cities, or even the commercial business throughout the country to-day in the East, was not the ability by which Lincoln won. Lincoln won his countryside cases because they wanted just the ability which his training gave him. He never became a great and learned lawyer in that sense, but he did become a great trier of cases because his preparatory training had led him to know men, and I think no example is better fitted to show the relation of preparatory training to work. His preparatory training along one line was peculiarly adapted to the work which he had to do in life.

Another example has been cited by another speaker. I have very often heard it, and, with all due deference to the speaker, I must say that I think it is a fallacy. He brought up that instance about the explosion of a steam engine. Now, in the first place, I want to say to you that I think all lawyers should know something about physics, like all educated men, but if a young man comes and asks you what he should study how are you going to tell whether he is going to have a case which will involve knowledge of a particular kind of engine or a particular method of keeping a set of books. If he is going into the patent law business then you can tell him to go to a technical school, but if he is simply going to enter into general business you cannot, because you have found in your practice that knowledge of a particular kind of machinery happened to help you, assume that it will help him. Therefore, I think what we have to do, unless we know that the

man is going into a particular kind of legal business where a knowledge of a particular business or of a particular kind of machinery is necessary, is to find out the mental work which he has to do as an average lawyer and tell him to lay emphasis on the things which train for that—not, of course, to exclude a knowledge of physics, but if emphasis has to be put somewhere, then put it on the things which train the mind.

In regard to the suggestion of mathematics, I confess that I should have liked the speaker to say something more on that subject. I am very fond of mathematics. I liked it better than any other study when I was in college, but I have never been able to see any connection between my work in calculus and my work as a lawyer; while, on the other hand, having become at a subsequent period interested in economics, I can see that the mental training there does help me as a lawyer. My mind is open to conviction on mathematics, but I should like some one to show me exactly where the connection exists.

In conclusion I would like to reply to the speaker who has just sat down. I think he misunderstood me slightly. As I understood his remarks, they were that we should not, in dictating the preparatory education for a lawyer, allow him to study the same things that he will come in contact with as a lawyer, because the legal business is narrow enough anyhow; what we want to do is to give him something that is disassociated with the law. I agree with every word of that. I do not think the college is the place to study the law. But that was not my recommendation. My recommendation was a liberal education. In a modern college with an elective course of study, you have to lay emphasis on something. You cannot go on and say "I am going to get a broad general education." All our larger colleges have elective courses. You must choose. The question is, what will you choose—not whether you would be a broad and liberally educated man, but on what should you lay emphasis. I should agree with the speaker in saying that you should not study the law; that you are going to come to that afterwards; but I do not see that the study of history,

for instance, is narrowing to a lawyer, that the study of economics, sociology or Latin or languages is narrowing to a lawyer. And there also I wish to call attention to the fact that while I did say that Latin was a useless study, if it is simply looked at from the standpoint of acquiring information so as to translate sentences, I also say that the study has a place in the liberal education of the lawyer and that he should lay great emphasis on that even though he might not lay the same amount of emphasis upon it that he does on history or mathematics. Nothing in my education do I more heartily regret than my deficiency in the study of languages and literature. While we may try to make up the deficiencies of our earlier education, we can really never do so, and it is for that reason that the question of what a man should study before he comes to take up his technical training is so important.

Alfred G. Reeves, of New York :

I would like to say one word in regard to the question of mathematics which Mr. Lewis has brought up. It seems to me that the reason why mathematics should be studied as a preliminary to the study of law is quite well shown by the writer of the brilliant paper when he himself says that during his college days mathematics was the one study which he most liked. Unconsciously to himself, perhaps, the keen logical thought that his mathematical training was bringing out influenced him to see that kind of work. We find, too, the same close thought and work in any kind of study. It seems to me that too much stress cannot be laid on the point. If you could go all over the reports of all the courts and analyze and correlate them, you would come to the conclusion that everything in human life is dealt with by the lawyer—science, literature, philosophy, theology ; everything comes to him, and he must deal with it in his practice, and therefore the more the lawyer knows of facts, the better he is off. Again, he must be able to apply those facts in close logical reason, and the better he is able to do that, the better his training for the study of the law

has been. One man will come to his preliminary training with a bent for one kind of study, and that particular kind of study with him may train his mind better than it would another man's mind. Another study will take another man and give him the same training.

It seems to me, therefore, that it resolves itself to this: The requirement toward which we must attain is not that a man should study Latin or sociology or physics, but that he shall get a certain amount of study that shall give him, in his condition and under his circumstances, according to the decision of the teachers under whom he is studying, the greatest amount of mental drill and the greatest acquisition of facts before the mind, and you cannot lay down a standard in that regard that will apply to every man; it must be an individual case. One man likes classics, another man likes mathematics, and another logic. It is the study that the man's bent takes him to, carefully and thoroughly pursued for the period you prescribe, that will bring that man out best prepared for the subsequent study of law.

So it seems to me that we come back ultimately to say that we cannot make any absolute standard here except that we can say that a man shall have a certain amount of time, a certain amount of careful drill, a certain amount of careful and persistent study as a preliminary to the study of the law; and we may rest assured that the best schools and colleges, letting that man follow his natural bent, will bring that out for him, so that in his individual case, if he has put that time upon it, he will be the better prepared for the study of our profession.

The Section then adjourned to Thursday afternoon, at 3.30 o'clock.

THURSDAY.

August 30, 1900, 3.30 P. M.

The Chairman :

I regret to state that Mr. Hill, the Assistant Secretary of State, is unable to be here and present the address he had hoped to deliver. The only paper, therefore, will be the one by Harry B. Hutchins, of Michigan, on "The Law School as a Factor in a University Education."

The paper was then read.

(See the Paper at the end of these Minutes.)

The Chairman :

Is the Committee on Nominations ready to report?

S. C. Bennett, of Massachusetts :

We nominate Harry B. Hutchins, of Michigan, as chairman, and George M. Sharp, of Maryland, as secretary.

On motion, the chairman of the Committee on Nominations cast the vote of the meeting for the election of the gentlemen named, and they were unanimously elected.

W. S. Curtis, of Missouri :

There is one question that I am not quite clear about, and which I should like to ask the reader of the paper, and that is as to giving credit in the law course for work done in the undergraduate department, or vice versa.

Harry B. Hutchins :

I had in mind, in the reference that I made, the custom in several of our universities by which a student at the beginning of his senior year as an undergraduate, may elect certain law courses that are counted on his baccalaureate degree. The law school also accepts certain work that the student does in the academic department. Those are credited to the student on the law side. In that way he shortens his period of residence one year for obtaining both degrees. I said, in connection with substantially that statement that I have now made, that the inquiry was being seriously pressed as to whether or not a

larger liberality of election in the professional schools, not only in law, but in medical schools and engineering schools, might be allowed; but I also suggested that any provision of that kind should be hedged about by conditions and restrictions, so that it would not be possible for the student to shorten his residence below six years, otherwise if it were not for that, he might elect professional courses to such an extent that he would have very little professional work to do when he got in the professional school. And I also intended to suggest, and I think I did, that the professional work might be under proper regulation and should be rather along the line of history—in the law department, for instance, the study of the sources of our jurisprudence rather than technical law.

W. S. Curtis, of Missouri:

I should like to ask what value there is in the study of the history of law before the student has studied a good deal of law? That is a question I should like to ask some law professor here.

Henry H. Ingersoll, of Tennessee:

I ask leave to offer a resolution in regard to the celebration of John Marshall Day:

Resolved, That the Section of Legal Education of the American Bar Association heartily recommends to the law schools of the United States a suspension of the usual school exercises on John Marshall Day and, in lieu, an appropriate celebration of the day by special schools with programs that shall command the interest and participation of the students.

The resolution was adopted.

Edward A. Harriman, of Illinois:

Although law is becoming a part of university graduate work, it is not yet distinctly recognized as other subjects are as a university subject and for this reason: That in other subjects, Greek, Latin, mathematics, political science, work done in one year is recognized to some extent in other universities, and the certificates of the examiners of one university are

accepted as sufficient evidence of what they state. In the case of law that is not universally true, and curiously enough the tendency is rather away from the university, I think, in that regard and rather more strictly toward the professional idea. More and more schools are refusing to give credit to students who have done work at other law schools. More and more schools are refusing to accept the certificates of gentlemen of the highest professional standing that students have attained a certain familiarity with the subject of contracts, torts, etc.

This, it seems to me, is much to be regretted, although it may easily be explained. I think it is unfortunate that a student may not pursue his studies in law as in other subjects at more than one institution, without serious detriment to his work; and yet, under the present régime, at a large number of the leading law schools, a man who goes from one to the other, although allowed to enter, perhaps, in advance, is required to pass an examination on the work done at the school whence he came, and the certificate of his examiner that he has attained a certain proficiency is entirely ignored. I say that without hesitation, because the school with which I am connected has recently taken a step in exactly that direction. Hitherto, we have given credit generally to such certificates, but recently we have adopted the policy of refusing credits. The explanation, of course, is simple. It is this: It is well known that standards do vary, and vary, probably, more in law than in Greek or Latin; but it does seem to me that university faculties ought to be able in law, as in other subjects, to come to some agreement as to the meaning of their own standards, and to understand that when a man has studied a certain book of cases under one instructor, he may be presumed to know practically the same amount in regard to the subject as if he had taken the examination under another instructor of equal professional standing. I should like to know if any of the gentlemen present have any suggestions to

make as to the means by which the present tendency may be checked and some comity between universities established.

Henry H. Ingersoll :

Horace Greeley said the way to resume specie payments is to resume. Now, the way for gentlemen to give each other credit is to give credit. I assume we may give credit to students' certificates from other schools if we credit them ; if we don't, we shall not.

S. C. Bennett, of Massachusetts :

I do not see any reason why a student coming from another school should not be re-examined in the same subject in the school to which he goes. Examination will not hurt him. He is compelled to put up with it constantly after he comes to the bar. Practice in examination is good for him. If he has credit for the time he has spent upon that subject in the other school, as I presume he has in many schools to-day, he gets all he needs. He has the opportunity to study in a school for a year, and then go to another school and study there, and he gets credit for one year's time and study. In the second school he is re-examined in the same studies that he studied the year before and also in those that he studied the second year. The hardship to him, it seems to me, does not seem to be very great, although, doubtless, the student may object to it.

John Nicolson, Jr., of New York :

There was a question asked a few minutes ago which, I regret, was not answered. It was with reference to the wisdom of studying the history of the law—a study, perhaps, which we do not engage in as much as we ought. It has been well said that the reason of the law is the light of the law. When the reason ceases to exist, logically the law ceases to exist, but it does not always do so. To study the history of the law and the conditions under which any given law originated seems to me an essential part of our preparation for the bar. I cannot understand how one, for instance, may get a knowledge of the law of real property without a study of the history of real property. Knowledge of the history of certain things clears away our

doubts. I know a little history, but there are certain things which I do not know which show me the importance of this knowledge. I believe there is a principle of admiralty law that for a tort committed on the high seas, if suit is instituted and judgment recovered, the only thing you can levy upon is the wreck of the vessel on which the tort was committed. Without a knowledge of the history of that law that does not seem any more reasonable than that in the case of a railroad accident the judgment creditor should levy upon the ruins of the cars. Before sitting down, I would like to ask to what extent law professors advise their students, when they inquire as to the wisdom of going into an office upon finishing their training in a law school, to become acquainted with some of the real practical workings of an office—a knowledge which they do not acquire in the average moot court. Just as the young physician, when he has finished his term in the medical school, goes into a hospital for a time. I would like to inquire if it is customary to suggest that there should be a certain length of time spent in a practicing lawyer's office.

W. S. Curtis, of Missouri :

I thank the gentleman for answering my question ; but perhaps I was not clear in putting the question, for he has not exactly answered it. He has said something in favor of the study of legal history which I believe good, but in the paper that we have listened to with so much pleasure there was some allusion to courses that could be pursued in an undergraduate department which might be utilized to shorten the professional course in the law school, and under those subjects was mentioned legal history, and the question which I asked was this : Is there very much advantage to the student in undertaking to study legal history, whether in the law school or in the undergraduate course, before he has studied a great deal of law ? My own opinion is that the proper place for the study of legal history is, as a general topic, late in the law course. As a special topic it should be taken up, perhaps, in connection with every topic taught in the law school. For instance, real prop-

erty has been mentioned. That will come late in the law course. If we are going to select equivalents in the undergraduate department that shall in some way be used to shorten the professional course, I should like to know what those equivalents are to be. That is a little broader question, perhaps, than I asked before.

J. B. Thayer, of Massachusetts:

I am sorry that the dean of our school at Cambridge is not here—although he is to be here a little later—because I think he might make a contribution to this subject. In regard to the study of legal history, we discussed the general study of legal history as a preparation for legal study some time ago at Cambridge, and it is rather our experience and opinion—it is certainly mine—that legal history can best be studied in connection with each subject that is studied. If the instructor in any given subject should have prepared himself, as in course of time he should as to every subject that he touches upon, in the history of that subject, he will vastly enrich his course, and he will furnish the students in regard to that particular subject the very matter which is in question, as I understand it. No student in a college before he begins the study of law will get much permanent good from the study of legal history. He will get something, but he won't understand what he talks about very well. I do not think I should favor that mode of procedure. It is the same thing in regard to Roman law. The true value of the study of the Roman law is as a light to understand our own law. Of course, in the study of Latin and in the history of Rome it has another value. But to a study of law particularly, the best way of pursuing that study, I think, is to pursue it in this incidental way. Every instructor ought to acquaint himself with the relation of his particular subject to Roman law. With the contribution that can be made to his subject by a knowledge of Roman law, if he communicates that to his students, they learn all the Roman law that is particularly important on that subject.

As regards another question that has been put—the question about advising students to go into a law office, I am not quite certain of the opinion of my associates, but for one I can say that I never advise a student on that subject except to say that as a matter of course he should go into a law office. As a result of eighteen years' practice before I went to Cambridge, twenty-six years ago, I think it is a matter of course that a student who has been through a law school should have his six months or a year in an office.

As to the question in regard to giving credit in the law schools for the study of subjects that may be taught in the under-graduate department of the college, it seems to me it is very much to be desired that no such credit should be given. At Cambridge we discourage the study in the under-graduate department of subjects like constitutional law and other subjects which we teach in the law school. We want the men to study the subject we teach them, and we want them to study it with all the inspiration which they get from studying it with their associates in the law school. We find that the men who study it while they are in college before they have begun the study of law are not half as well prepared as they would be if they had pursued the subject at the proper time in the law school.

J. H. Webb, of Connecticut:

Concerning the history of the law as a preliminary study, the difficulty there seems to be in determining how exhaustive such a course of study should necessarily be in order to comply with the idea Professor Curtis had in mind. Of course, every college would, in its general course of history, suggest to the student the meaning of a great many of the principles of English jurisprudence—at least, so that a well-informed student, liberally educated, coming to the law school ought to have an outline, at least, of the general history of the law, which would naturally include some suggestion of the beginning of our law. To begin at the outset, either in the college or in the law school, with anything like a thorough and exhaustive

course of the history of English law would seem to me to be entirely out of place. I do think, however, that going on with each course in the law school there ought to be furnished something in the way of systematic instruction as to the history of the law as it progresses. I have found that students have appreciated more or less discussion, from time to time, of the history of the criminal law of England, and I have suggested annually, at the beginning of the course, that the students apply themselves, as they have opportunity, to the study of the history of the criminal law of England, and, from time to time, as opportunity affords, to other studies. I think the history of the law ought to advance along with the study of the law.

Then, too, I think the entering of a law office in the last year of the course is a good thing for a student to do, because it is the best way to get experience.

C. G. Fall, of Massachusetts:

I do not claim that I can answer the question that Professor Curtis has put, but I do claim that there is something to be said on the point that he raises that is practical. He asks what is the advantage of legal history to a student who has not had much training in the law, and then he broadens that out a little. Now, I submit that there is something which can be studied in an undergraduate course which will be of immense positive help to a student in the law school. I claim that a study of Roman law, that a study of the Constitution of the United States, and that a general view of international law, such as can be modified for the student in an undergraduate course, if taken in such a course and fairly good work done, will help the student immensely when he comes into the law school, and will lighten his work there. In the first place, his mind is better trained, and he is better able to study practical law in the law school. Secondly, he will be able to go on more fully with his work in the law school. What little experience I have had with young men coming from the law school—and I have had about fifteen years, more or less, in seeing them right

around me—has been that they are bound to get those studies which they need to have to get admission to the bar, and let the others go. It is almost an impossibility in the Boston University Law School to get much attention paid to anything upon which examinations are not to be based. I well remember how, when we had a distinguished gentleman from the West lecturing there, and he, unfortunately, gave the lectures which he had previously embodied in a text-book, the students commenced reading the text-book, and, later on, ended by cutting the lectures, and the lecturer began with over one hundred students and ended with four. This is only an illustration of the short cuts that students will make. In most of the law schools all the studying is to get admitted to the bar, no matter how, and those things that the students know they will be examined on are the things they study. Now, if some of those things can be done before, while they are in the college, the students will have that much done before they begin to study law. A man studying contracts, torts, criminal law, real property, etc., and only having two years to do it in, does not have time to study Roman law and international law, and to go into a disquisition on the Constitution of the United States. But those things can be studied in an undergraduate course, and they are studied with more effect there. I can count fifty men who have told me that their studies in the undergraduate course on those subjects have been of immeasurable benefit to them, and they never could have pursued those studies if they had waited until they got in the law school.

Perhaps some one will ask, How much Roman law can an undergraduate student study to be of use to him? He can get a fair working knowledge of the patriotic system of the Romans out of which the body of the Roman law was a natural consequence. He can get a fair idea of the Constitution of the United States. If he cannot follow the Constitution in the great cases, there are plenty of books which give the opinions of Marshall and those who followed him in concrete

form, properly collaborated, and with a fairly good instructor he can get a good working knowledge of what the Constitution means. The same may perhaps be said of the principles of international law. I will group those three: The Constitution of the United States, International law, and the Roman law, as subjects which can with great advantage be studied in an under-graduate course. Perhaps others may think of something which ought to be added to the list.

The chairman then asked the chairman-elect, Harry B. Hutchins, to take the chair.

J. Newton Fiero, of New York :

I call for the report of the committee to arrange for a conference of law schools.

George M. Sharp, of Maryland :

I am instructed by that committee to report that pursuant to the resolution adopted by the Section invitations were sent to all law schools of the country, to send delegates to meet in conference with the Section at this time. Forty-seven schools appointed delegates. Thirty-five have delegates present, there being about 54 gentlemen here as the representatives of the law schools, and they have been attending the meetings of this Section.

These gentlemen on Tuesday organized an Association of Law Schools, and adopted a constitution, a copy of which will be printed in the proceedings of the Section. The document is a simple one, providing for the appointment of an executive committee of five, the chairman and secretary-treasurer, ex officio, with three other members who are elected annually. The standard adopted for admission into the association was, that all members should require students entering to be graduates of a high school or having equivalent attainments, and, secondly, that the school should have the ownership of or convenient access to a library which should include the reports of the state in which the school was located, and of the Supreme Court of the United States, and, thirdly, that members should maintain a course of study of at least two years, thirty weeks

per year, of ten hours average required study per week ; at the end of five years the members are required to increase the length of their course to three years.*

I have the honor to submit this as a report of the committee.

Henry H. Ingersoll, of Tennessee :

May I ask Judge Sharp if it was not a mistake to say that applicants were required at the time of their admission to the law school to possess the requirements he has spoken of, but that that provision only referred to those who were candidates for a degree ?

George M. Sharp :

Perhaps that was it. The stenographer's notes have not been written out yet, and there was so much discussion that I may not be accurate in my recollection. I think the gentleman is correct.

A delegate :

I move that the report be received.

The report was then received.

J. Newton Fiero :

As no one has moved the adoption of the report, it might be deemed to have the approval of the Section unless an expression of opinion is had upon one single point connected with it, and as this organization of the law schools is the child of this Section and as this Section must assume its paternity, I desire to call attention by way of resolution to the provision which restricts practically the admission of law schools to the organization to those having a three-year course. Those schools having a two-year course at this time may be admitted, but the report says that by 1905 they must have a three-year course. Now, I desire to present the question as to whether or not such an association should be affiliated with or proceed from this Section : that is, whether this Section is willing that an association organized under its auspices and which must go

*The Constitution of the Association of American Law Schools and a list of the schools which appointed delegates, will be found *infra*.

out to the world as organized under the auspices of the American Bar Association, and particularly of this Section, shall exclude from its membership 37 of the law schools having two-year courses. As a matter of fact, 44 schools now, according to the statement which I have here, which was prepared by the Regents of the University of the State of New York, have a three-year course, and 37 have a two-year course, while three or four other schools have courses the length of which are unknown. Practically, and as a matter of fact, by virtue of this article which was adopted, as I recall it, by a vote of 17 to 15, this Section is asked to approve that action by which these 37 schools will be kept out of this organization. Now, I offer this resolution :

Resolved, That it is the sense of this Section that the proposition of the articles of association of the Association of Law Schools should not at this time require as a condition precedent to membership the establishment of a three-year course of study at any fixed date.

A single word more. I do not care at this time to go into the question as to whether a three or a two-year course is the more desirable. I do want to say that there is a very great difference of opinion among educators on that question ; that in the opinion of many educators of wide experience two years spent at a law school and one year in an office is the best education a student can have, and the gentleman from Cambridge, who spoke upon the question of whether or not a student should be advised to take a period of clerkship in an office seemed to me to enforce the argument I am making now more strongly than I can, when he said that he invariably advised the student to spend some time in an office. Now, is it wise or prudent at this time for this Section to say that a student who desires a law school course must take a course extending over three years, or none at all. I am not arguing in this connection that there is not a necessity for a three-year course. I am not arguing against the existence of those great schools which

with their endowments and able faculties, large attendance of students of ample means, may think it is desirable to have three-year courses. But it is an entirely different question whether you shall say that every law school ought to have a three-year course and that the student cannot have the benefit of the two-year course if he desires. And the point I make is that instead of advancing the cause of legal education you retard the progress of it, because students will say—certainly in the State of New York—that they will take the two-year course in a law school and one year in an office, and then pass their examinations and be admitted to the bar. You will find many young men who, if they have to take their choice between a three-year law school and going into an office, will never attend the law school at all, but will study law in the office. So that instead of raising the standard for the entire profession, you raise the standard for a few, but, on the other hand, you do something which is an absolute injury to many.

The principal reason why there ought not to be such a provision as that referred to is the fact that upon an association being formed to which certain persons are eligible, it is unjust to declare that unless a number of the members of the association do and perform some act within five years different from what they have performed, that they shall lose their right to membership in the association and shall be expelled from it for failure to do so. I insist that if membership in the association is to be allowed at this time to two-year schools it is not reasonable to make a provision that they shall lose their membership, not for performing any act required of them now as a prerequisite to membership, but because within five years they do not come up to a standard which is set up at this time. The difficulty in regard to this constitution is that as now adopted it requires by the last article that in order to amend it there shall be a two-thirds vote of the schools. So that no change can be made without a two-thirds vote, and the two-year schools are invited to go into an association under the practical agreement that they shall be excluded within five years unless they

can within that period influence a sufficient number of votes so that they have two thirds of the membership with them. Now, it may be said, what shall be done? This is the action of a conference, and it may be claimed that there is no control over it here. This constitution has not been signed, as is required to be done, by a single school. The whole matter is embryonic as yet. The time for action, just and reasonable, still remains. If the organization should be postponed for a year no great injury would accrue. But what would be the case then? Whether the organization proceeds under that constitution, or not, the sense of this Section upon that subject would ultimately be controlling as to whether or not two-year schools should be entitled to the same rights as schools having the three-year courses; and, moreover, the action of the Section would be to indicate its dissent from that proposition, and to put the two-year schools in a position which they ought to have and which they have the right to stand in before this Association, namely, that they shall not lose membership in an association so far as this organization—the parent organization—has any authority over it, by reason of any such provision as this.

John H. Wigmore, of Illinois:

In moving to lay the resolution on the table—which I now do—I desire to say that——

Henry Stockbridge, of Maryland:

I submit, Mr. Chairman, that a motion to lay on the table is not debatable.

John H. Wigmore:

I am not going to debate it; I only wanted to state my reason.

The Chairman:

The Chair holds that the point of order is well taken.

E. A. Harriman, of Illinois:

I second the motion to lay the resolution offered by the gentleman from New York on the table.

The motion to lay the resolution on the table was lost.

John H. Wigmore:

I made the motion that I did—which has now been lost—for the reason that on three separate occasions the American Bar Association, in the past six years, has adopted resolutions looking to the lengthening of the course of legal study in schools to three years. At page 408 of the Transactions of 1895 is the first, and in 1896 again, and then in 1897. On Tuesday last, after a long debate, wherein the gentleman from New York was given full opportunity to present his dissent, this proposition was adopted, and I think now it is trifling with this body to attempt to undo the action then taken after full deliberation.

James B. Thayer, of Massachusetts:

I came on here from a considerable distance to attend the conference of law schools, on the supposition that we were to take part in a meeting, the results of which would be respected. I certainly should not have come if I had supposed that, after a long debate, the action taken would be subject to the approval of another forum. I have not time to spend in that way. I do not think, after a body of experts have considered this matter fully and fairly, and after they have allowed to the gentlemen representing two-year schools, if they choose to take membership in the association (and they are not obliged to take it) five years, within which to raise their course to three years, they have a right to complain. They were beaten fairly, and, in my judgment, they ought to submit. How can this Section, composed of many gentlemen who were not present at that meeting, pass upon what was done there? And what right have they to do so? I submit that the proper way to dispose of the gentleman's resolution would be to lay it upon the table.

William P. Rogers, of Indiana:

It seems to me that the resolution tries to reach a matter with which this body should have nothing to do. There was

a call sent out to the law schools of the country to send representatives to a meeting at this place on Tuesday. That was the day of their meeting.

They met there, they attended to the business, and they have gone home—at least, many of them have—and now it seems to me that this Section has no right to go back into a matter which belonged exclusively to that body and say that it had no right to take the action that it did take. My own experience is from having some connection with a two-year school that in five years there will be no school represented here to-day that will not have a three-year course.

F. M. Danaher, of New York :

I am not a law educator, and I look upon this subject from the practical standpoint of a lawyer. I have read the resolution passed by the American Bar Association recommending a three-year course as highly desirable, but I fail to find in that resolution any word which puts us upon record that we should deal officially and declare incapable of doing good work any two-year law school. And that represents the difference between a recommendation of a three-year course and the passage of a resolution which absolutely condemns and boycotts any school that, no matter what the condition of the laws of the state may be, does not have a three-year course; that without it they must either go out of business or have it said that they are not within the class of schools that are recommended by this Association. Now, it is true that the Section of Legal Education has no right to dictate a constitution to an association of law schools, but it is equally true that in case they come to us with their constitution and ask us to approve it, we have a right to be heard upon the question whether we agree to all that they put in it. My experience teaches me that a law school education is greatly to be desired, but I have come in contact with so many applicants for admission to the bar whose entire aim is to get admitted at the earliest possible moment, that I have come to the conclusion that if you lengthen the course to three years and deny a man admis-

sion until he has studied three years, you are going to do a great harm to the cause of legal education as far as it applies to the law schools. It is certainly much better to have a three-year course than one of two, and on the same principle it would be better to have a ten-year course; but the question is one in practical life. The average age of young men who are admitted to the bar in this state is 25 years and 9 months. Are you going to lengthen that course by an additional year of law school work, at a time when it is becoming a matter of discussion whether the undergraduate course in our colleges should not be shortened to three years?

William P. Rogers, of Indiana:

I would remind the gentleman that this Section has not been asked to approve the work done by the Association of Law Schools on Tuesday as yet.

F. M. Danaher, of New York:

Then how does it happen we are discussing it?

I. C. Crawford, of South Dakota:

As I understand it we have received the report of the committee and there has been no motion made to adopt it.

A delegate:

I move that Mr. Fiero's resolution be referred to the Committee on Legal Education.

George M. Sharp, of Maryland:

I hope that will not be done, because I think this matter ought to be disposed of here and now.

You will observe, sir, that no complaint is made about any action taken at the meeting of delegates from law schools, or about any part of the constitution adopted, except the clause requiring all members of that Association to adopt three-year courses of study in five years. Though there were many more important matters provided for, this is the only thing complained of. The question raised by the resolution is of little practical importance now—it refers to something to be done five years hence. Nobody is injured yet, and it remains to be seen

whether there will be any two-year schools at the expiration of five years. If the progress which has been made in the past five years continues, the two-year school will soon be a thing of the past.

The constitution was the result of a compromise. Many thought three years should be required immediately. This Section and the Bar Association had recommended that period, and about half the schools of the country had adopted it. The promoters of the new organization considered this question very carefully. Their opinion was that many of the two-year schools were doing good work under most unfavorable conditions. In some cases it was with difficulty a two-year standard was maintained. It was thought that the policy of the new organization should be to aid and strengthen the weak schools, and not to injure or discredit them. The large three-year schools with endowments and large incomes could look out for themselves; it was the small schools which needed help. I think that was the sentiment of the meeting on Tuesday. Unless I am mistaken, the three-year schools had the votes, and could have adopted any standard they pleased; but that was not their idea at all. It was a very fair minded body. The clause under consideration was a compromise, and appeared to be very fair for all concerned. The two-year schools were given five years to increase their standard to three years. I have no doubt that if it appears at the end of five years there are schools which cannot increase their standard, the constitution will be changed. I do not believe it possible that a school which cannot increase its standard will be expelled. It seems to me the policy of the association will be to aid—not to injure—the weak schools. If it should appear that any schools, able to increase their standard, refuse to do so to obtain some unfair advantage over their neighbors, it will be a different matter. This Section ought to leave the matter to be dealt with by the new organization at the proper time. If the association is then unjust, it will be time enough for this Section to act. At present, the question is not a practical one.

This matter was fully considered at the meeting on Tuesday. Mr. Fiero presented his views fully, as did others having the same opinion. The constitution was adopted after a full discussion. The meeting was thoroughly representative. Every school in the country was invited, and 47 appointed delegates. Delegates from 35 were present, participating in the meeting. The delegates were all more interested in the matter and in a better position to form a correct judgment than this meeting. The resolution introduced by Mr. Fiero is, in effect, an appeal from that meeting. Many of the delegates have gone home, and it would be unfair, as well as unwise, for this Section to pass Mr. Fiero's resolution.

This Section has no legal power to interfere in the affairs of the new Association. It is an independent organization. The resolution can have no effect in changing the constitution adopted, but it may have an influence on the prosperity of the new Association. An expression of disapproval by this Section of the action taken by the new organization might be discouraging to it, and would tend to discredit it with the bar. In my judgment, the clause of the constitution affected by the resolution is not important, and I think we ought to stand by the action taken by the delegates on Tuesday.

The Association which has been formed is the result of a great deal of labor. Much interest was taken in it by the law schools; nearly every important school was represented at the meeting. It promises to be a powerful influence for better legal education.

The new Association was the offspring of this Section. It is about to begin what promises to be a most useful work. It would be most unfortunate if it were discredited at the beginning by the adoption of this resolution.

George E. Beers, of Connecticut:

I am in favor of voting down the motion to refer this resolution to the Committee on Legal Education, and also voting down the original motion of Mr. Fiero. We have accepted the report. There has been no motion made to adopt the

report. I think this Section is willing to drop the matter. It is an entirely independent organization. Do we have the right to advise that Association, and tell it what it shall and shall not do? We who represent the Yale Law School here voted against this three year requirement; but the thing was thoroughly threshed out, and now it is unfair, when those who favored the three year course have gone home, to try and undo the work that Conference accomplished.

Edward A. Harriman:

I will withdraw my motion to refer if the Section wishes to vote on Mr. Fiero's resolution.

William S. Curtis, of Missouri:

I have seen things happen at the fag end of sessions that went by default. Now, I represent a two-year law school. I was very quiet in the debate on Tuesday with regard to the fundamental document which organized this new Association. I did not know but that it might be so framed that I would never obtain a franchise, but I felt this way about it—that others should have more to say about it than myself. Now, what is the situation here to-day? If I were in favor of continuing, or if I were in favor of changing the course in the institution which I represent to one of three years, I should vote against this resolution; I would go home feeling that I was liable to be discredited by this Section and by this Association if my trustees did not raise the standard of my school; but I should hope that my trustees would argue that it was worth while to belong to an Association of that kind and worth while to raise the standard. Suppose I was in favor of continuing our school as a two-year school, then I would say to my trustees and to my friends who represented schools of that kind—and I am not ashamed of my school—I believe we have a difficult two-year course; I would say that in all fairness it would be wrong to take the action proposed by this resolution. The thing was fought out by the gentlemen who were invited to this conference, and an Association has been formed. I

even doubt very much the suggestion of Judge Sharp, that at the end of five years some of these schools may want to continue as two-year schools. I doubt very much, too, that this Section would have no jurisdiction to disapprove of the policy now proposed by the articles of association. But the main reason—whatever our personal opinion may be—for voting down this resolution now is, it seems to me, upon the ground of fairness.

The Chairman :

Gentlemen, the question is upon the resolution of Mr. Fiero, of New York.

The resolution was lost.

The Section then adjourned *sine die*.

GEORGE M. SHARP,
Secretary.

THE STATE OF LEGAL EDUCATION IN THE WORLD.

ADDRESS

OF

CHARLES NOBLE GREGORY,

OF MADISON, WISCONSIN,

AS CHAIRMAN OF THE SECTION OF LEGAL EDUCATION.

Among the autograph notes which have from time to time come to the writer, and which he has treasured with reverent interest, is a very brief one, which refers to legal education as "a subject of such remarkable and permanent interest." It was written a little blindly, as by an aged hand, and the signature could hardly be read; but looking more closely the note was found postmarked at Hawarden, and the signature was that of W. E. Gladstone.

The characteristic phrase of the great phrase maker, "a subject of such remarkable and permanent interest," has seemed just and apposite as applied to the branch of education which we meet to consider. Especially in this republic our students, more than any other class, guide and govern their fellow-men in affairs of business and affairs of State.

Dr. Johnson's couplet has also been in mind—

"Let observation with extensive view
Survey mankind from China to Peru."

And I have sought, for this meeting of 1900, to look about and report on the present state of legal education in the world, not stopping with our own country or continent or with the nations of Europe, but including as well those great Asian races with which our relations are assuming such increased and portentous significance.

Turning first, then, to Japan, I find that until 1868 this island empire was governed by customs and simple feudal laws,

and that nothing like civil or commercial law there existed. In that year a university was founded by the imperial government, in which colleges of law, medicine, physics, literature, engineering, and agriculture are now included. The graduates of the law department were many of them sent to England, Germany, France and America for further legal studies. These graduates have laid the solid foundation of the present legal education in Japan, and now number about one thousand, each having a degree (Hogakushi) equal to that of a master of law, and they are admitted to the bar of Japan without examination. The present number of law students in the Imperial University is about seven hundred.

Last year a new university was founded by the government at Kyoto, which includes a college of law.

The law professors of the Imperial University among this enlightened people, who seem to be more than repaying to the Caucasians in military and civil affairs their well-learned lessons, are given high rank and treated with honor. Some of the more eminent are appointed to the house of peers or nominated to be counsellors in the departments of the government.

There are in addition to these imperial foundations some ten private law schools in Japan, having in 1896, 4,436 students and 354 professors, but most of them with no strict standard of admission and every student admitted to them is graduated after three years, according to a custom not unknown among us, but the diplomas of these schools do not admit to the bar. The law of Japan is codified extensively and the study of the codes and of international law, Roman, English, French and German law, fills a large part of the curriculum.

Japan, with its population of forty-two millions, has 1,565 practicing lawyers, less than one-third the number of her law students, a circumstance perhaps partly due to the compara-

¹ This has been ably controverted by Prof. J. H. Wigmore in an article in the *Japan Mail* for December, 1892, entitled "New Codes and Old Customs."

tively recent development of her legal system, but which finds its partial counterpart in many European countries, where law courses seem to be pursued by many who never intend to practice, and where the law students often outnumber the bar.

In the great empire of China with its population estimated at over four hundred millions, that "yellow terror" of our press, there are no lawyers, but instruments of torture are in free judicial use. There are complete civil and criminal codes which the magistrates are supposed to know and observe; and indeed, an English barrister has lately at length maintained their criminal code to be superior to the English system, but no counsel is allowed to be heard. The written pleadings and statements are prepared by licensed notaries who read them to the courts (with some freedom of comment); but the notaries, who are the sole substitutes for lawyers, like some of our municipal dignitaries, simply buy their appointments. The magistrates get their offices on competitive examinations in the Chinese classics, "proficiency in which is supposed to qualify a man equally well to command an army, direct a fleet, become a judge, a viceroy, or prime minister," as I am assured by a letter from our unfortunate legation in Peking.

At the treaty ports there are consular courts administering foreign law, in which a few foreign lawyers practice. Of course codes administered without lawyers on the bench or at the bar, are like tools without workmen, or engines without engineers, and the system seems to have nothing to recommend it except its pertinacity, which would be a virtue in a good system, but is the opposite in a bad one.

In India, with its 221 millions of people, there are no less than five classes of legal practitioners, starting with advocates and ending with revenue agents. English barristers or Scottish advocates are entitled to be enrolled as advocates in India, and many Indians pursue their legal studies in the London Inns of Court, and come to the Indian through the English bar. The lesser ranks of legal practice are attained on examinations.

There are four institutions in Calcutta affiliated with Calcutta University in Law, and seventeen or eighteen outside.

Instruction in this tropical and indolent climate is by lectures given between eight and nine in the morning by professors who are in active practice, and the rules refuse credit to a student for more than one lecture a day. The tuition and charges are about \$17.50 a year. It is certainly a tribute to the famous Indian codes, the first of which was drawn by Lord Macaulay, if so slight and inexpensive a system of instruction enables the students to master them.

The system on the continent of Europe is the long established one of universities with the four faculties of letters, medicine, divinity and law.

Russia, with its 130 millions of people, has eleven law schools, including one in Siberia, and a total of 7,491 students registered in them. She has 2,538 attorneys and 1,649 assistants who only appear in court in the names of their chiefs, making a total of 4,187 attorneys and assistants. Thus it appears that there are nearly three times as many law students as attorneys in Russia, and nearly twice as many as attorneys and assistants combined.

Every one of the twenty¹ universities of Germany has a law faculty, and there were enrolled in them in 1899, 9,746 students of law, the German exceeding the Russian law students by about 2,300. The German law faculties include 149 regular professors, 31 special professors and 41 private lecturers, making the proportion about one instructor to 44 students. Admission to the lesser rank of referendary is upon examination after three or three and one-half years study of law in a university; and full and final admission is on a second examination after three or four years further preparation. In 1897 there were 5,918 attorneys in the German Empire, with its

¹ I notice the *N. Y. Nation* speaks of the 21 Universities of Germany. My Berlin correspondent only mentioned 20 and that is the number given in the only authority I have at hand: "Die Geschichte der Deutschen Universitäten von Georg Kaufmann, Stuttgart, 1896."

52,000,000 inhabitants, and the law students exceed by almost two-thirds the number of attorneys, although the latter are more than twice as numerous in Germany as in Russia.

France, with her 38,000,000 people, has 14 faculties of law, including one in Algiers; and, January 15, 1900, she showed an enrollment of 9,709 students, just 37 less than that of Germany, but 2,218 more than that of Russia, with its vastly greater area and population. The university of Paris alone reports 4,012, nearly one-half of the above number. A two years' course leads to the bachelor's degree, three years makes a licentiate, and four a Doctor of Laws.

France has, according to statistics received from Paris within the month, 9,146 lawyers, between five and six hundred less than the number of her law students; but she has also 8,727 notaries who do much of the business transacted by lawyers among us. With about one-third the population of Russia, her lawyers are nearly four times as numerous as those of the Muscovite Empire, and more than twice the number of the Russian lawyers and their assistants combined. The French lawyers exceed by over one-half the number of the German lawyers, although Germany's population exceeds that of France by about 14,000,000. It will be observed that Germany is a freer country than Russia, and that France is a Republic.

Coming on to England, it is sometimes said that she has no law schools in the sense in which we use the name. In the universities, as at Oxford and Cambridge, and in the Victoria University at Manchester, and at Durham, lectures are delivered and law degrees are granted, but these are rather preliminary to regular training at the Inns of Court in London. These ancient and inscrutable bodies still control admission to the English bar, and furnish various courses of legal instruction, and call to the bar applicants passing their several examinations. Admission to the ranks of solicitors is in a like manner controlled by the Incorporated Law Society, an organization of solicitors. The examinations for this branch consist of one in general education (for which certain university degrees may

be substituted). Secondly, in certain assigned legal commentaries. Thirdly, a final one in the law generally, a test of practical skill. The severity of these examinations is proved by the fact that only about one-third of those starting together finish at the first trial these three examinations.

The severest critics of English legal education are found among the most eminent lawyers and judges of England, and they freely confess that after years of agitation for its improvement, they despair of amendment while it is under the present control. One of the most eminent legal scholars and writers in England writes me from Oxford as to legal education: "Probably our English system is the worst of any. The exclusive control of legal education is given to a body of men who have shown over and over again that they are incompetent to deal with it. The Council of Legal Education which represents the Inns of Court contains a few men who are fully aware of the shortcomings of our system, but they are in a minority, and, after a long struggle, they have given up all hope of any improvement under the present régime. The Council of Legal Education has, as you are no doubt aware, only to do with the bar. The solicitors are ruled by the committee of the Incorporated Law Society. This body has at times shown more enlightenment on the subject of legal education, but they only deal with young men during the period of what we call their articles, that is, while they are serving as clerks in order to learn the practice of their profession; and one of the radical defects of our system is that the two periods (1) of scientific teaching, and (2) of practical teaching, are not kept sufficiently distinct."

A Queen's counsel who is perhaps the most widely known law writer in England, wrote me recently not to quote his previous letter, as he feared he might have used actionable language concerning the benchers of the Inns of Court.

Sir Frederick Pollock, at the dinner of the Bradford Law Students' Society the other day, said he was very glad to find the question of legal education was being seriously taken up in that part of the country. In Bradford they were doing spon-

taneously, and to the best of their means, that which in London, he was sorry to have to admit, the Inns of Court had done grudgingly on a scale ludicrously out of proportion. He said, as reported, "When English lawyers themselves began to denounce the Inns of Court for *its* ridiculous and scandalous neglect of legal education, perhaps something would really be done."

The late and deeply lamented Lord Chief Justice, in a series of splendid addresses, while commending the Council as having done well under difficulties, and acknowledging the great advance of legal education since the Commissions of 1846 and 1855, yet has declared his belief "that legal education in its best and broadest, highest, most acceptable fashion, never could be achieved unless there was created a different body, collegiate in its character, and directive and charged responsibly with the realization and systemization of legal education. Without some such machinery it was, in his judgment, quite hopeless to expect the creation in the best sense of a professional class." "Until there was a system of things in which it was made worth while for men to devote themselves to the study of special branches of the law with a view to teaching those special branches, there never could be effective legal education at all, and there never could be that professional class unless there was a permanent collegiate or university governing body, who would secure continuity of position as well as adequate emolument to induce the professor to devote himself to a particular line of study," which, he pointed out, was more and more evident in other branches of science and learning.

Mr. Justice Cozens-Hardy, speaking at Liverpool in January last, said: "It is cheering and encouraging to one coming from London to arrive at a place like Liverpool, where legal education seems to be believed in." And he strongly urges that law should not be regarded as a mere handicraft to be learnt only by apprenticeship and to be treated as a rule of thumb, but "as a science based upon logic capable of being

expounded by competent teachers to earnest and eager students."

The great fault with English legal education seems its disconnected and casual character, and the fact that the readers or teachers, though often eminent men, are chosen for terms not exceeding three years generally, and change and rotation seem the rule rather than the exception. If it is to be reformed and put on an adequate basis, it must be so arranged as to afford an honorable and useful and somewhat continuous career for strong and ambitious men. No other system can attract or hold competent men, or render to the students and the public competent service.

It does not seem easy to ascertain the number of lawyers in England. However, the four Inns of Court show a registration (as I learn by a London letter received within the month) of 9,780. Many of these however do not practice, being persons of fortune or in public positions. Some 3,000 persons appear in the London directory as practicing barristers, and there are some 16,000 qualified solicitors on the roll for England and Wales, which have a population of about 29,000,000.

The increasing proportion of lawyers will be noted, and I think it will be conceded that the people of Great Britain enjoy liberties more considerable than those of any whose affairs we have so far considered.

Crossing the Atlantic to the American continents—I speak of the greatest of the South American nations and of Mexico and Canada, our nearest neighbors, before I speak of our own country.

We find, shortly after Brazil separated from Portugal, two law schools were created by an act of 1829, one at Pernambuco and one at S. Paulo. These were the only two law schools in Brazil for sixty years and until the proclamation of the Republic in 1889. They graduated about one hundred lawyers a year in the later years. Only Doctors of Law were eligible for places in their law faculties, and these places were won on severe competitive examinations. The positions were

greatly coveted, and many of the foremost statesmen have filled them, though the salaries average only \$250 per month. The Republic maintains both these schools, but decreed liberty in higher education, and many free law schools were established, as at Rio de Janeiro, Minas and Bahia. The Republic moreover abolished all privileges both from titles and diplomas, and this took from the law schools the right of giving to their graduates exclusive eligibility to the bench; but the old requirement is largely observed still, though not demanded by law.

In our neighboring republic of Mexico, with her 12 millions of people, a national school of jurisprudence was organized under a decree of President Diaz of 1897, with a course of six years, a budget of \$26,449.10, and a staff consisting of a director, secretary, principal, superintendent, librarian and amanuensis and fourteen professors, whose yearly salary is \$1,200. In 1899 this school examined 191 students. There are seventeen other law schools in the several states of the Republic, with courses analogous to that of the national school.

Turning to Canada on the other side of us, I learn by the kindness of Principal Hoyles, of Osgoode Hall, that she has five law schools with about 478 students. (One of the five has but twelve students.) But she has 3,934 lawyers, however, in her population of about 5,000,000.

In our own country we find the last census showed about 90,000 lawyers, a number vastly beyond that of any other country, and it is believed that the census of the present year will undoubtedly show a great increase. The returns as to the general population of the country however will not be complete until the coming December, and as to the professions, not until several months to come. In the meantime estimates are useless. In 1899 there were reported in our borders 96 law schools (70 of them departments of colleges or universities); 49 hold day sessions; 24 hold evening sessions; 7 hold both and 6 do not state the time of their sessions; 82 of the 96 grant degrees.

There were 11,883 matriculations in our law schools in 1898-9 (substantially 12,000).¹ The average number of students to a school was 138. The matriculation fees averaged \$14, fees for the course \$69.80, and there were 513 professors, 311 lecturers, and 146 other members of the law faculties, making 970 in all, about one instructor to every 12 students. I am indebted for most of these statistics to the bulletin of the University of New York, prepared by Dr. Henry L. Taylor in December last. The returns for this year made to the Bureau of Education are not yet complete, many schools not making their returns until September, so that the above are the latest figures available.

Of course but a small proportion of the law professors give their whole time to teaching, and this accounts for the number as compared with that of the students.

The superiority of our best law schools to any in England is freely admitted by the best English scholars. Sir Frederick Pollock wrote me in June: "You can certainly give it as my opinion that the leading law schools of America have nothing to learn from us as to method, but rather the other way." The testimony of the most eminent English lawyers and judges before the Royal Gresham Commission looking to the establishment of a great teaching university, including a college of law, in London, expressed the same view. In fact I may venture to say that an English legal scholar and law writer and teacher of international eminence writes me that he hopes within a short time to enter his son as a student in an American Law School, of whose advantages he is convinced.

It is certainly not required of us to reform legal education in England. Dr. Jowett's story of the lady of fortune who was asked to subscribe for the conversion of the Jews, and replied, "No, not a penny. They are quite rich enough to

¹ It may be of interest to add that the University of *Santo Tomas*, Manilla, reported 558 law students in 1897, and Havana in 1899 reported 124. The increase in the number of students between 1888 and 1899 in United States was in theology, 24 per cent.; medicine, 84 per cent.; law, 224 per cent.

convert themselves," seems applicable; but the high estimate of the American law school by our English brothers is deeply gratifying.¹

We have learned much from Germany in matters of education, and Sir William Markby writes me that perhaps the German system, by which a professor's compensation depends largely on the fees of the students who choose his instruction, might be put in force in law schools with good effect, as tending to reward teaching, in the long run, according to its excellence.

I think that the law teachers of our country may congratulate themselves that the branch of instruction confided to them is confessed to be better administered among us than anywhere among English speaking men, and the fact that perhaps the most enlightened master of that subject in England, which gave us our law, is sending his son to us for an instruction beyond what the mother country can afford is the highest proof of this.

The lesson of the great attendance upon law schools in most of the more active and civilized nations, so far beyond that required to maintain the requisite contribution to the bar, is simply that more and more young men are turning to the study of the law of the land as the best preparation for many activities other than those of the lawyer, and especially for those of public and official employment. Although the gentlemen of the bar equal only about $\frac{1}{80}$ of the population, yet our nation gives about one-half of its higher offices to them (as statistics seem to prove); so that a lawyer's chance of high office is about 380 times that of one not a lawyer. The inducement to this qualifying study is thus obvious.

That our system produces as good lawyers as any in Great Britain, Mr. Bryce, an international authority of the highest, has freely admitted, attributing it to the extraordinary excel-

¹ The *Law Times* of London, Sept. 1, 1900, announces that a son of Li Hung Chang is about to enter a well-known American law school unless the war prevents.

lence of many of our law schools. I have before pointed out that a gifted American lawyer, but one who had been outranked in America by a considerable number of his professional brethren, after fifty years of age, easily won, and kept until his retirement, the lead of the English bar, and that no English lawyer has made a record in America like that of Mr. Benjamin in England. I was chagrined to observe that a great English lawyer, just advanced to the bench and peerage, speaking at a dinner the other day, expressed the conviction, derived from his meetings with American lawyers before international tribunals, that the English system of two branches of the profession, barristers and solicitors, was superior to ours, since our lawyers became too greatly involved in details. I was consoled when an official person, a member of a commission of international arbitration, which our English critic lately favored with an opening argument of thirteen days' duration, assured me, after that somewhat protracted test, that every member of the commission would deem the accomplished Englishman as himself exhibiting the fault he laid at our door, and that the best and most lawyer-like argument made before the commission was by one lately the head of this nation, now simply an American lawyer, the Hon. Benjamin Harrison. I am sure it is the hope of every one of us, that in this not ungenerous rivalry between the lawyers of two friendly nations which acknowledge kindred laws, we, the law teachers of America, may not see our scholars falling behind.

I heard President Low, a few days ago, quote President Stanley Hall to the effect that education was one of the few things all men were agreed in valuing, however they might differ as to its methods. Mr. Low said, further, that the success of our navy in our late war with Spain was the result of education. That our naval victories were won in the classrooms of Annapolis, of the war college at Newport or on our naval training ships. That if in our schools we could teach men to fight, train them to do well what is highly exceptional in the life of any man or any nation, we ought certainly to be

able to teach them to work, to do well the tasks that come to men and nations habitually and always. I submit that this shrewd generalization applies quite as much to the professional school, to the law school, as to those which teach the handicrafts concerning which it was spoken. We law teachers have our share, obscure though it be, in making the triumphs of the American bar possible.

In a recent litigation in an Irish court over the copyright of the "Genuine Old Moore's Almanac, Bound in Green," it transpired that the prognostic editor had predicted, "Lawyers may look for a busy time, as Mars is in the 9th house of the new moon," but counsel remarked that he had not foretold the South African war. Prediction is always doubtful and often disastrous, but I think an inspection of the general field of professional education, including law, shows a tendency to expand the professional course, even if that compels the shortening of the preliminary academic course, and that we may look to see this tendency increase.

The announcement of one of our greatest universities, that its undergraduates may elect to give their whole senior year to professional studies, and the potent advocacy of a like curtailment of the academic course by the head of perhaps our greatest university, are only marked examples of this tendency. I certainly regret the shortening of the time given to general studies, but "*ars longa, vita brevis*" means for us that life is short and Blackstone in several fat volumes.

I think we observe, too, a growing tendency in our own country, as long seen in the older countries of the world, to select the instruction of the law school as a chosen form of higher training for large classes of men not looking to the active practice of law, as a preparation for public life or the administration of large property interests. That we can also mark the increase of a class of teachers of law with whom law teaching is the principal or exclusive occupation, and not a mere minor incident in professional life, who give to the law school their whole strength and entire zeal and ambition, and not a minor part of their time and strength and no part of their ambition.

There should be lures of honor and permanence if not of gold, for the useful law teacher. He will give back, like every good and faithful servant, to his master the master's "own with usury." A beggar's portion will not habitually attract adequate men or habitually procure adequate services.

Undoubtedly the principal event in legal education in this country within the year was the conference of accredited representatives of law schools which met at Saratoga in August and formed an association of law schools and arranged for a standard minimum course and requirements for admission and graduation, to be complied with by all schools belonging to the association. Such an association, wisely and reasonably constituted and conducted, must prove salutary in helping the more defective schools to raise their standards. The danger is that unless there is some efficient system of inspection or examination, it will raise the standard of their bulletins only.¹

The abilities and character of the officers chosen and the constitution adopted give every assurance that all that can be done will be done wisely, fairly and considerately to advance the cause of legal education without wanton trespass on any man's interests or feeling, and that if the association is ever called on to exercise its quasi-criminal jurisdiction, it will do so as the pioneer judge declared he administered capital punishment, "to the perfect satisfaction of all parties concerned."

The lesson of the statistics as to lawyers and population is not unworthy of notice. China has no lawyers. Japan about one lawyer to 26,887 inhabitants. Russia, one lawyer to 31,048; Germany, one lawyer to 8,787; France, one lawyer to 4,155, without counting her great army of notaries.

England and Wales (counting the members of the bar on the rolls of the Inns of Court and the solicitors), one lawyer to 1,121, and the last published census of this country shows one lawyer to every 699 inhabitants, so that the proportion of lawyers to population is about 38 times as great in the United

¹ Prof. J. B. Thayer, of Harvard Law School is president, and Prof. E. W. Huffcutt, of Cornell, is secretary and treasurer.

States as in Japan, about 44 times as great as in Russia, over 12 times that of Germany, about 6 times that of France and a little over one and one-half that of England and Wales.

Of course the figures are only an approximation but they seem to indicate a significant relation between the proportion of lawyers and the condition of a people.

In the most reactionary and least advanced of the great nations, as we have seen, lawyers are unknown. Under the more despotic governments they are less numerous and potent, and under those more free, and which surround with safeguards the rights of the individual, we find them more numerous and powerful, and in that nation to whose sovereignty we bow, and where this tendency has gone farthest, we find them from the first more numerous and more dominant than anywhere else in the world. We cannot say who will be chosen our chief executive at the coming election, but we can say that the people see fit to consider for that great place none but lawyers, and that, as at all times past, except under the immediate perturbing influence of a great war, a lawyer will be chosen.

A great bar is a great burden, but it is the standing army which defends individual rights, and without which they are insecure and defenseless. May the law teachers of this nation, with the aid of consultation and union, contribute more and more to the adequate training of that great class, which in the division of labor so striking in all civilization, is charged with seeing to "justice and its administration," never forgetting the admirable declaration made before us by the late Lord Chief Justice, and which comes to us with "the sound of a voice that is stilled," "that justice and its administration are among the prime needs and business of life," and that therefore the labors of the law teachers must always be "of such remarkable and permanent interest."

Magna Charta itself is no part, I suppose, of our law, but it is a part of our heads and hearts, and has grafted its principles upon the fundamental ideas and laws of the great constitutional monarchy and the great republic alike.

Its declaration of individual right makes the Twenty-ninth Article worthy of our reverent consideration. "No freeman shall be taken or imprisoned or be disseised of his freehold or liberties or free customs, or be outlawed or exiled or any otherwise destroyed, nor will we pass upon him, nor condemn him, but by lawful judgment of his peers, or by the law of the land. We will sell to no man, we will not deny or defer to any man either right or justice."

These great pledges of justice the barons won, but these the lawyers must maintain. For many years except in time of war, the bar of this country has greatly outnumbered its army, in striking contrast to all other nations of the earth. The training of those who must alone maintain, if they are to be maintained, the rights of the citizens in the courts, and who must predominate as well in all legislation as to those rights—this function must be taken as a high and solemn duty laid upon the law teachers of the country, to be met and discharged with less risk, it may be, but in no meaner spirit than that of the barons of old. As we name in one breath the founder and the preserver of the nation, so we may well put side by side those who founded and declared our dearest rights and liberties with those who on many a stricken field

Where reason fought and "justice" was her cry
Have to this hour those treasures held secure.

THE PROPER PREPARATION FOR THE STUDY OF LAW.

BY

WILLIAM DRAPER LEWIS,
OF PENNSYLVANIA.

The law has always been called a learned profession, but until recently no preparatory education was required of those who sought to enter it.

There were no examinations for admission to any law school prior to 1877, and as late as 1890 only one school had adopted admission requirements equivalent to the entrance requirements for admission to college. Indeed, in the last decade, the majority even of fairly good schools had only that time honored, but utterly useless check on unfit applicants—that they should be of “good moral character.” Of late, rapid progress has been made, though it is indeed true that if we look at the entrance requirements of our law schools, we will still find much to be desired. Thus, of the eighty-four schools, the catalogues of which I have examined, no less than forty-six have no entrance requirements, though in many cases this fact is concealed by such empty phrases as “No special literary qualifications are required to enter this school.” “The applicant must be sufficiently advanced in education to comprehend the principles taught,” or, “he must have a good English education.” One school solemnly announces that the applicant “must be able to read”; others however, say frankly that the only requirement is “to register one’s name with the secretary.” At the same time it must be remembered that a large number of the schools which are still without any entrance requirements, though in most instances nominally connected with universities and colleges, are really private proprietary schools, and with two or three unfortunate exceptions, they are not connected with universities of any standing. The

high sounding sentences which I have read are not so much evidences of charlatanry, as of the fact that the faculties of the schools are conscious that the profession expects them to save the bar from illiterate persons. On the other hand, thirty-eight schools do require the applicant to prove that he has at least some preparatory education; three require a college degree, seventeen an examination equivalent to admission to the Freshman class of a good college, and the remainder, an examination which could be taken by those who have passed one or two years in an ordinary high school. Though, as I have said, there is still much to be desired, no one can look at the record of progress since 1890 and not perceive that the tendency among law schools is towards an increasing demand of preparatory education in those who would take up the study of the law. A university law school is not now considered in good standing unless its entrance requirements are equivalent to the requirements for admission to its college department, and while these requirements vary somewhat as between two or more universities, in any one university it prevents the law students and the law department from being regarded with contempt by the rest of the university.

But I do not believe that any of our university schools of law which now have admission requirements equivalent to the admission requirements of their colleges, will or ought long to rest content with this standard. Indeed, I think I put the matter correctly when I say that there is a very general feeling at a number of universities that a higher standard of admission is required, and that the student, on entering the school which trains him for his special life-work, ought to come to that work with a more liberal mental equipment than is indicated by the ability to enter on a collegiate course. Already another university—Columbia—has announced its intention to require, after the fall of 1903, a college diploma, while I know that in other universities the possibility of a similar requirement is being discussed.

Without criticizing the step taken by Columbia, I cannot help regarding it as unfortunate that the present discussion regarding standards of admission among the better law schools seems to begin with, and to be confined to, the question: "Should we require a college diploma for admission?" It has always appeared to me that this is starting with what we may call a dependent question; that is, a question the proper solution of which depends on the solution of another and much more fundamental question. It is, indeed, very natural that those of us who are connected with law schools now requiring a college entrance examination for admission should approach the question of increased entrance requirements by first discussing the desirability of requiring a college diploma; for up to this time all the standards of admission adopted have been standards of quantity, not of quality. That is, we have always required the would-be student to pass examinations arranged by persons having no knowledge of law, the subjects themselves being selected without reference to any special requirements, if any there be, of the law student. Yet it would seem proper that, before law schools require their students to attain a certain scholastic standard, especially when that standard involves as much time and labor as is represented by a college diploma, the faculties should first ask themselves whether the studies prescribed by college faculties as necessary to obtain this degree are adapted to the work which is required of the law student. In other words, the first duty is to inquire what information, what kind of mental training, is necessary for one who would study law. We cannot expect a college faculty to investigate this question. Lawyers, and especially those who teach law, are alone qualified to decide the best mental training of the would-be law student. If we do not decide the question, no one will decide it for us. After we have determined what training the prospective student of law should have, then, and not till then, can we intelligently take up the question where the education we desire can best be obtained, and what evidence law schools should require of the

man who comes to them to study law that he is prepared for his work. In short, we have first to answer the question, "What is the proper preparation for the student of law?" before we can take up such a secondary question as the wisdom of requiring a college diploma for admission to our law schools, and the primary object of this paper is to discuss the first and more fundamental question.

How, then, shall we solve the problem of the proper preparation of the would-be student of law? Must we not first examine the character of the material on which the law student and the lawyer have to work, and the nature of the mental processes through which he must go in order to solve the real problems of that work? A preparatory education should seek to prepare the mind for the real work which the mind will be called upon to do. Stated in this way, the proposition would seem, as I believe it to be, axiomatic. And yet it is a truth which we all need to keep constantly in mind, for nothing is more popular and plausible than what we may call the maybe-incidentally-useful idea in preparatory education. Every now and then something is recommended to the would-be law student from what is called a practical standpoint; shorthand is good thing because quick notes may be taken in court; book-keeping, because a client may want you to examine his books; Latin, because the student will find the names of writs and some of the maxims of the law expressed in that language; government, because perchance as a lawyer he may go into politics. What makes such suggestions all the more plausible is that we all must admit that the reasons advanced are good reasons. It is true that shorthand aids us in the taking of notes; that in many cases a knowledge of bookkeeping is an assistance to a lawyer, and that if one knows Latin he will find no difficulty in extracting the meaning from a legal maxim expressed in Latin. The real trouble with all such suggestions is that they lose sight of the fact that education is always a choice of good not a choice between good and evil. It takes time to acquire knowledge. We have only one life to live.

That which is not the best expenditure of time is a poor expenditure of time. While we may admit the incidental usefulness of shorthand or bookkeeping to a lawyer, in contemplating a proper course preparatory to law, one should first try to determine not the knowledge which is incidentally useful, but the training which is essential in order that the mind may grasp the real problems of the law. That these problems are not the rapid taking of lecture notes, the keeping of books or the correct translation of the Latin names of writs, is unnecessary to point out. Indeed, when we consider the amount of time necessary to acquire even a superficial knowledge of Latin, to hear a lawyer advocate the expenditure of this time by the would-be law student on the ground that it will enable him to translate the occasional snatches of old-time pedantry found in the reports, would be laughable, if it did not indicate a total lack of any real thought on legal educational matters.

Turning to the work of the lawyer, we find first that the materials with which he has to deal are the facts of his clients' cases, and the recorded decisions on facts more or less similar to the cases which his clients bring to him. This material is all social material; that is, it relates to men in society, their relations to one another and to their property. The particular instances or cases of the law, are all records of human actions and the obligations which result from those actions. From this material the worker in the law must induce his principles, and deductively apply them to the facts of the particular case before him. That legal principles are inductions from particular instances, is not peculiar to the law. This is also true of the principles of all other sciences. Neither is it peculiar to the law that the material on which the student works is not identical with the material of any other science. Each science has its own peculiar field of facts in which the devotee must work. What is peculiar to the work of the lawyer, however, is that his principles are rather expressions of tendencies than exact statements of universal truths. The laws of physics, of chemistry, of mathematics, are of univer-

sal application. This is never true of a legal principle, no matter how carefully expressed. Take for example the proposition that a man is bound by his contract, or the proposition that he can do what he likes with his own, or that he is liable for the injuries he knowingly inflicts on others. None of these are universally true. Though of wide application, they are nothing more than usually predominating tendencies, and the difficult legal work is the work on cases which apparently fall under two or more conflicting principles. Take the last two principles above stated; they both apply, but with opposite results, to the case of one who seeks redress for an agreement between two others not to sell to him. The difficulty of the proper decision is not in the induction from which the principles are obtained, or in the deduction which applies one principle, admitting it to predominate, but in the "judgment of tendencies" which determine which principle in this case should predominate. Thus, in addition to the inductive process by which this principle is derived, and the deductive process by which the lawyer applies the principle to his case, there is, in every case of real difficulty, a mental process to be gone through which involves a judgment as to which of two apparently opposing principles will predominate and govern the particular case to be decided.

If I have described properly the mental work required of the law student and lawyer, it would seem to follow that the kind of mental preparation which the law student primarily needs is that which will enable his mind to deal with legal material, to make inductions and deductions from that material, and primarily to weigh tendencies; that is to say, determine from among several principles which are applicable to the case, the particular one which should govern it. If this is the special mental training wanted, it does not require an extended investigation to ascertain that this training is not found in the study of mathematics, in the physical sciences, in biology, in literature, or in the study of modern or classical languages. The mathematician begins with assumptions which

he regards as self-evident. Each step of his reasoning is demonstratably right or wrong. If probabilities enter into his work, it is only because physics or chemistry or astronomy has failed to furnish him with absolutely correct premises. Mathematics may have a value to all who use their brains, in that it inculcates the necessity for careful deductions; but beyond this, for the work of the lawyer, it has no special significance. Physics and chemistry, besides the information they impart, train the hand and eye in the handling of certain classes of material things; but the classes of material on which the physicist and chemist work bear no resemblance to the social material of the lawyer. The study of biology, or nature in any of its manifestations, increases the power of observation of external objects, and, if carried far enough, increases the power of generalization or induction. All this improves the mind, widens the mental vision and increases our capacity for enjoyment, but it has no direct bearing on the peculiar mental work which the law student and lawyer is called upon to do.

While I think many will agree that there is no direct analogy between the principal mental work of the lawyer and the mathematician, the physicist or the naturalist, I am prepared for some dissent when I make a similar assertion in relation to the work of the student of language or literature. It will be observed, however, that I have not stated that mathematics or physics should form no part of a lawyer's preparatory training. Neither do I say that the study of language or literature should form no part of this preparation. I am merely pointing out that, like mathematics and chemistry and biology, the mental work involved in the study of language or in the study of literature has no direct connection with the principal mental work of a lawyer or law student. In the first place, the materials on which the student of literature and the student of languages work are totally different in kind from that on which the lawyer works. Literary expression is the product of man's effort in a particular direction, just as his house and ships are the products of his efforts in other directions. Cases—the

material of the lawyer—on the other hand, are the records of the actions of men in society and the consequence of those actions. One is the result of effort on the part of the individual, the other is the relation of individuals to each other. In the same way, in the study of languages, what has the proper translation of a sentence to do with what man will or ought to do in relation to other men? It is true that a proper translation is often the result of a comparison of other and similar sentences, but in this work there is but a small element of the judgment of conflicting tendencies, and the material on which such judgment must be passed is so dissimilar from the material of the lawyer that exercise in one class of judgments can be but little preparation for work in another. The study of language and literature has, indeed, a special claim upon the attention of the would-be lawyer. But this is not because it has a direct bearing on the peculiar mental work of the lawyer, but because the material of the law is embalmed in written sentences, and work in languages and literature increases our ability to obtain the full meaning from a sentence. Again, such work increases our ability to express ourselves accurately, clearly and forcibly; and when the lawyer reaches a legal conclusion or wishes to advance a legal argument—that is, after his real mental work on a legal problem is done—the ability mentioned is of great value to him. While it does not make him a great lawyer, it does aid him to make the most of his legal ability. In the sense explained, therefore, the study of language and literature has a place, and an important one, in the preparation of the lawyer for his life-work; but it should always be borne in mind that these subjects have no more direct bearing on the training of those mental faculties necessary to the solution of the problems of the law than biology or chemistry.

This direct training is, I believe, alone found in the other social sciences. Law is one expression of our civilization. An accident of our educational system has served to make us separate law from economics, sociology and history. We all recognize physics and chemistry as forming a group of sciences

which have to do with physical phenomena, the different branches of biology as having to do with plants and animals, sociology, economics and history as having to do with the social life of man. But the fact that the law has reached the dignity of a science long before the other social sciences; the fact that in England, until recently, common law was not systematically taught in the Universities, but had to be picked up in the courts and the Inns of Court, has led us to look at the law as something which has no relation to any other science. The fact remains, however, that the material of the lawyer's study, while of course not identical with that which must be handled by the economist or the sociologist or the historian, is like them in that it is the record of events of man in society, from which events rules determining future cases are evolved.

Not only is there a similarity in kind between the material of the social sciences, but there is also a similarity between the character of the necessary mental operations of the lawyer, and those of workers in the other social fields. In all the social sciences the so-called principles or laws, as we have pointed out is the case in law, are merely expressions of tendencies. The difficult work in each is to determine the principle which will prevail in a case which appears to be subject to two or more conflicting principles. In other words, in each of the other social sciences, as well as in the law, there must be the mental operation which we have called the judgment of tendencies. Take for instance a question in economics. What will happen if a particular tariff is placed on a certain commodity by an act of Congress? The answer involves a judgment of which among several results tending to be brought about by the act, will predominate. Economic opinions, as legal opinions, often practically amount to certain predictions, but the real work of the economist, as the real work of the lawyer, consists in estimating the probabilities of the relative strength of conflicting principles. What is true of the work of the economist and the sociologist, is true also of the work of the historian, so far as that work is the judging of the

causes of historical phenomena. Of course, when the historian is engaged in ascertaining whether a particular document is genuine or the probability of the past occurrence of a particular event, he is doing mental work which bears no resemblance to the mental operations of a lawyer. He is passing judgment on material which is not the record of actions of men in society, but rather physical phenomena, the handwriting of the document, the spelling of the words, and the texture of the paper used.

Not only is the mental work of the lawyer and the worker in other fields of social science essentially the same, and the material used of the same general character, but since the law is one expression of our civilization, in order that the student may obtain a grasp of its principles and the nature and cause of its growth, he should have a mental concept of our civilization as a whole, the character of its development, its fundamental tendencies and their ultimate causes. This can only be obtained by one who has more than a mere superficial knowledge of economics, sociology and history. The public policy which lies at the ultimate basis of our law, is found in our social and economic conditions. History, political science, economics and law have therefore a closer relation to each other than physics and chemistry, than Latin and Greek, or than zoology and botany. In addition to the fact that the material is of the same character, and the mental work of the student in each the same, the information acquired in other social sciences not only throws a direct light on the problems met with in the law, but gives a mental picture of the movement of the social forces which would seem to be necessary before a student can adequately handle the more difficult problems of legal science.

If I have correctly pointed out the similarity between mental work in the different social sciences, and their dependence on one another, it would seem to follow that in preparing for the study of the law, while we should lay some emphasis on the study of language and literature, the principal emphasis

should be placed on the social sciences. I do not wish to be misunderstood. I do not mean that mathematics, the physical sciences or the training of the eye and hand should form no part of the liberal education of the lawyer. Neither do I admire the German system which carries specialization so far that at the age of twelve a boy must choose his profession. On the contrary I believe that our primary educational system should contain something of each of the great branches of human knowledge, that every boy and girl should have sufficient of each, not only to enable them to obtain something of the peculiar mental training which each affords, but to enable them to ascertain the thing for which they are peculiarly adapted. And I am of the opinion that, except in rare instances, under our modern American primary system it is impossible for the average boy to know what he is adapted for unless he carries the different branches of knowledge at least as far as entrance into our more advanced colleges, and that furthermore, in many cases it is impossible and therefore improper, for a young boy or man to choose his life-work intelligently until he has had at least two, and in some cases four years, of college work. But with all this, we as lawyers and teachers of law have really nothing to do. When a man should choose a profession is an individual problem. On the other hand, how far different subjects should be compulsory on all students, and when the power of the student to elect his own liberal course should begin; that is, whether it should be in the High School, the Freshman year at college, or the Sophomore or Junior year, are general educational problems with which we again, as persons interested in the training of men for a special work, are not called upon to decide. Our province is, I believe, clearly defined. What do we want the man who comes to us to study law to know? Of course we want him to have carried each branch of education far enough to be sure that he chooses intelligently. But having chosen and having determined to be a lawyer, then I think that before he comes to the study of the law, those of us who

are connected with law schools should insist that he has more than an ordinary knowledge of literature and some knowledge of language; but above all that, without being an advanced specialist in any of the social sciences, he should have carried his studies in these subjects at least as far as the present undergraduate courses in our more advanced colleges.

It may be said that the stress which I have laid on the study of the social sciences as a preparation for legal work, while it may be proper, has no better basis of proof than the apparent analogy between the mental work of lawyer and laborers in other social fields. In other words, that there is no statistical proof. This is true. I am not aware of the existence of any statistics full enough to warrant a conclusion as to the relative value to the law student of different subjects of preparatory study. But is not the argument by analogy which I have used, in default of statistical proof to the contrary, sufficient to dictate a present policy for our professional schools?

What statistical information we have been able to gather at the University of Pennsylvania is at least suggestive. We find that the general average obtained in our examinations by our High School students is only from three to four per cent. less than that obtained by our college graduates. If we confine our observations of college graduates to those who come from the larger Universities, the per centum of difference is about five. The difference in the per centum receiving honors and the per centum of failures is slightly more favorable to the college men; that is, more college men receive honors and we have fewer failures among this class than among High School graduates, and the difference between the two classes in this respect is more marked than is the difference in the average grade of all college and all High School men. But in view of the fact that the average college diploma represents at least three years more of preparatory study than the average High School diploma, there should be a greater difference between the two classes. On the other hand, with rare excep-

tions, the leaders of our classes are college graduates who have, during their college courses, laid special emphasis on the social sciences or on languages, while among our High School graduates, we find that men with what is called an industrial training, are very apt to fail. In other words, while the statistics we have gathered are wholly insufficient to base any positive conclusion on, yet so far as they go, they indicate that from the standpoint of the student of law, the character of his preparatory study is important, and that a course in college which lays emphasis on the social sciences or languages, or both, is productive of the best results.

If the conclusion at which I have arrived is correct, it will be natural for those of us who are connected with law schools having admission requirements equivalent to college admission requirements, to ask ourselves whether it is possible for us, in addition to our present requirements, to insist that our students come to us with additional knowledge of literature and language and a special knowledge of history, sociology and economics? The answer to this question will depend somewhat on the number of years which a student must add to his High School work. How many years additional study beyond the ordinary High School graduation is then necessary to produce the kind of liberally educated man that we need? Are four years necessary? I do not think so. While I have deprecated the effort to begin specialization at an early period, I believe it to be true that if one knows what his life-work is to be, he can obtain a liberal education adapted to the technical education which must follow his liberal studies in a shorter time than if, while obtaining the last part of his liberal training, he has no conception of what he is going to do, and, therefore, probably lays emphasis on studies which, while liberalizing and useful, are not more so than others which would bear more directly on his work in life. While, perhaps, the majority of the sons of wealthy parents do not choose a business or profession until near the end of their college course, the average boy who graduates from our High School knows at his graduation

whether he intends to study law or not; and for this class, which is the class that, as a whole, now passes directly from the High School to the Law School, it would be possible to reduce the length of time which they should spend in college, because from the start they would know the kind of liberal education they desire.

Admitting that it will not be necessary for the average High School graduate to spend four years in college to obtain the liberal education indicated, it is nevertheless true that he will have to take at least two years, or probably three, before beginning his legal studies, and the practical question is: Can the law student of the near future be made to do this—not those who come to a few great universities, but generally? I think so. My experience leads me to believe that the real difficulty in persuading the average High School graduate of nineteen to take a course in college before taking up the study of law is not so much the expenditure of time and money involved, but the difficulty of persuading him or his parents that such a step is essential. So long as they think that a college course has no direct connection with legal work, while they may admit the theoretic desirability of a college training, it is indeed difficult and often impossible to induce the boy or his parents to undergo the necessary sacrifices to obtain it. On the other hand, I have found that if you can get into the minds of the boys and their parents the fact that what you want is not so much this indefinite thing known as a college course, but a knowledge of history, of economics and sociology, because of the relation of these things to law, it is not so difficult to persuade the would-be law student to go first to college, for at least for a partial course.

My point is that it is possible for all good law schools to pass beyond their present requirements for admission, even where these requirements are now equivalent to a college entrance examination; but that this result can only be brought about by law school faculties having a definite idea of what they want their students to know. Law schools generally

cannot hope to be able to insist upon their students first going to college unless they have a definite idea of the principal subjects which the student should study at college, and be able to show some definite relation between the college work and the law school work. They cannot insist on a college course as an indefinite thing, but they can insist on their students being prepared in particular topics, and I believe that this insistence will result in a short time not only in the requirement of a college diploma, though the diploma may be gained in less than four years, but in a diploma obtained as the result of a college course, which, while liberal in the best sense, has laid special emphasis on particular subjects. I am optimistic enough to believe that we shall soon see a larger number of our schools of law in all parts of the country rapidly moving towards the point where they will demand of those who would enter, a liberal education, better than that now acquired by the average graduates of our best colleges, and that this result will be obtained by insisting on a liberal education which bears a definite relation to the work which the student of law and the lawyer is called upon to do.

THE LAW SCHOOL AS A FACTOR IN UNIVERSITY EDUCATION.

BY

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Systematic legal training in the United States is of modern origin. The law office alone did not furnish it, and, in the nature of things, could not furnish it. Although two or three of our law schools first took root in the early years of the century, their substantial growth and effective life, as influential and moulding educational forces, reach back but little, if at all, beyond two or three decades. The profession generally has been slow to recognize the merits of law-school training. Even to-day many obscure lawyers, and some prominent ones, advise the student to seek admission to the bar through the law office rather than through the school. Twenty-five years ago this was the advice ordinarily given by the practitioner, unless he happened to be of the few who had sought the schools. As a result, nearly every law office had its students, who were "reading law," ostensibly under the direction and immediate tuition of the practitioner, but really, in most cases, without his aid, excepting by way of occasional suggestion as to books and incidental instruction in matters of practice. There were, of course, exceptions. We find that occasionally, under the old régime, the practicing lawyer felt a responsibility for his students and gave to them the stimulus of his advice and of frequent examinations. But the system at its best was but a lame one. The instruction given was often not suited to the capacity and acquirements of the student. With the average practitioner it would, as a rule, be along the line of his most recent investigations. If, under this system, the student came to his professional study with a natural aptitude for the work and well equipped by previous academic and collegiate train-

ing, he undoubtedly accomplished good results—not by reason of the system, but in spite of it. The natural and inevitable tendency of the old régime was to subordinate the science and to emphasize the art—to make practitioners of law simply, and not investigators as well. Coming in contact daily with the practical side of the profession, and, necessarily, during the short period of his study, with only a small part of it, and learning of the other side only through his interrupted and desultory reading, the ordinary student was naturally impressed with the mechanism, so to speak, rather than with the science of the law. Opportunities for obtaining comprehensive notions, unless he made them for himself, were wanting. His horizon was a narrow one. His investigations were fragmentary, and rarely extended beyond an examination of second-hand material. His surroundings were not such as to inspire or compel him to go to the sources for a verification of conclusions or for the discovery of new truths or new relations. Under such a system the proper foundation for subsequent growth and development was often lacking.

I desire not to be misunderstood. I would not for a moment contend that under the old régime of law office study exclusively most excellent lawyers were not made. They most certainly were; they are to-day. I would not commit the folly of failing to recognize that the development of American jurisprudence has been very largely—almost entirely, indeed—brought about by men whose preliminary legal training was that furnished by the law office. The ordinary practitioner who came to the bar with the old training was, as a rule, a man of good judgment, sagacious, and skillful in the application of legal principles. So far as his experience as student and practitioner gave him the opportunity to accomplish it, the *business* of the law was mastered. The idea that I seek to impress is, not that office study pursued exclusively failed to produce good lawyers, but that the *tendency* of it was to make more practitioners, to limit the range of research to the business of the office, to make results depend very largely

upon the capacity of the student to take the initiative and to work independently. Under such a régime systematic legal study was impossible, excepting in those rare cases where the preceptor had the spirit and the enthusiasm of the teacher and the necessary time for the instruction of the student at his command, or where the student, through his acquirements and methods, was able to make it so. Another weakness of the system lay in the fact that the prescribed period of study was a limited one, hardly long enough, in most of the states, for the student to get more than a smattering of the most ordinary elementary principles, and the further fact that practically nothing in the way of general preparation for the study of law was required.

If we turn to the law school of thirty years ago, we find the conditions for thorough and systematic study but little better. The school, to be sure, furnished regular instruction for a part of the year, and it usually had upon its faculty a number of men of great learning and commanding personality; but in its requirements for admission and for graduation, it was not above the grade necessary for admission to the ranks of the profession. The schools had not then learned what is now so apparent, that one of their legitimate functions is to lead rather than follow the profession in matters of educational reform. The condition of the Harvard Law School in 1869 is thus described by Dean Langdell: "In respect to instruction there was no division of the school into classes, but, with a single exception, all the instruction given was intended for the whole school. There never had been any attempt by means of legislation to raise the standard of education at the school, or to discriminate between the capable and the incapable, the diligent and the idle. It had always been deemed a prime object to attract students to the school, and with that view, as little as possible was required of them. Students were admitted without any evidence of *academic* acquirements and they were sent out from it, with a degree, without any evidence of *legal* acquirements. The degree of Bachelor of Laws was conferred

solely upon evidence that the student had been nominally a member of the school for a certain length of time, and had paid his tuition fee—the longest time being one and a half years.” In the Department of Law of the University of Michigan, at the time mentioned, and for several years thereafter, the conditions were not essentially different, excepting that at the end of the course an examination of some kind, and usually one of considerable thoroughness was always required. But there were no requirements for admission; there was no attempt at classification; the course was not arranged with a view to the natural relation of the subjects to one another; the period of residence was but two terms of six months each, which was frequently shortened to one term; intermediate examinations were never held; the student was regular or irregular in his attendance upon exercises as might suit his fancy or convenience; and if he lived through the course, and presented himself at the final examination, he was reasonably sure of receiving his degree. This, until within a few years, was the condition of our law schools the country over. It should not be a matter of surprise that, so conducted, they failed to receive general support and encouragement from the profession; that, under such circumstances, a university connection was little more than formal; that literary faculties regarded the law school as without the pale of university life—as contributing nothing to it and receiving nothing from it.

But notwithstanding all this, we should recognize the fact that under the old régime the law schools of the better order were of great service to the cause of legal education. They were the pioneers; they paved the way for the more thorough and scientific methods of the present. The credit that is due to those who take the initiative in a great work should never be withheld. That the instruction was wholesale in character, so to speak, and given without regard to the classification of students or their preparation, was compensated for to a considerable degree by the learning and personality of the early faculties. The corps of instruction not infrequently included

men of great personal force and magnetism, of broad culture, of extended and varied professional experience and of national reputation—men who impressed themselves at once and continuously upon the student body. From such men the earnest mind, whether prepared or not for the instruction, received a quickening impulse that became the companion of a lifetime. Their personalities and their work left an impress that is recognized and felt to-day, and that must be an enduring monument.

But the fact remained that notwithstanding the great men whose names were upon the faculty lists of the leading schools, the law school instruction of the last generation came far short of being systematic and scientific. The fault lay not in lack of ability and learning in the instructing force, but rather in lack of attention to the great problem of legal education. It was not then recognized that the teaching of the law is as much a profession as is the practice of it, and that it is worthy of the individual attention of earnest men. Then the work of the instructor was always subject to outside professional engagements, and was, therefore, necessarily secondary and irregular and to a large degree incidental. I will be pardoned, I trust, for my references in this paper to my own university by way of illustration. I make them because, on account of my familiarity with its history, I am sure of their correctness. Prior to 1883 the Department of Law of the University of Michigan had no one upon its faculty who was devoting his predominant energies to the school. And the experience of this department in that regard was not exceptional. Until a comparatively recent period, if I am correctly informed, it was true generally of the law schools of the entire country, whether connected with universities or independent organizations, that practically their entire teaching force was made up of men who were actively engaged in professional work. I would not be understood as urging or suggesting that men in active professional life are necessarily unfitted thereby for the work of the instructor. Such men may bring to the lecture-room a wealth of experience, a freshness of illustration and an up-to-date

quality in their instruction that serve to stimulate and encourage. It is, probably, necessary to the best results that the law school should have upon its teaching force a few men who are fresh from experience in the courts. They give to the discussions of the class-room a practical touch that challenges attention. In their hands dry legal principles become living realities, for they show their application in actual controversies between man and man. What I wish to emphasize is that a corps of instructors made up, as was formerly the general custom, entirely of men whose chief energies are given to outside professional demands, cannot, in the nature of things, bring a school to a high standard of excellence. The reasons are obvious. Men so engaged have not ordinarily the time at their command necessary for the thorough study of educational problems. Usually they are not able to conform to a regular schedule of exercises. They cannot give to the student the close personal supervision that is essential to the best results. Out of touch with university methods and university requirements, they naturally apply the professional instead of the academic standard. Impressed with the notion—which their daily experience confirms—that professional success depends, after all, to a very large extent, upon the natural aptitude of the man—that if the man has in him the stuff out of which the good lawyer is made, he will, in the end, succeed, whatever his degree may represent—they are naturally more indifferent than are their academic brothers to thorough tests and high standards. The writer well remembers the attitude of a distinguished judge, a member of a law faculty, who always urged the graduation of all applicants, upon the theory that those who were fitted to become lawyers were entitled to the distinction, and that those who were not might as well be thrown in, as they would not trouble the profession, but would soon find their level in other callings. It is quite apparent, I think, that the lack of systematic training and the absence of substantial requirements for entrance and for graduation in the law school of the old régime were due very largely to the fact

that the faculties were made up of men with whom teaching was secondary and in a measure incidental, and who had neither the time nor the disposition to give their attention to the study and development of educational theories as applied to the law. Under the conditions that I have indicated the law school, although in name and by formal connection a part of a university, could not be properly considered as contributing to its life and work. It could not be a factor in the general education offered by the university.

But in recent years the situation in our leading universities has materially changed. The law school has become in fact as well as in name a part of the university. This has been brought about by a change of policy in regard to faculty membership, by a substantial raising of the requirements for admission and for graduation, and by improving the general tone and quality of the work by the adoption of more scientific methods and higher standards. Through the determined efforts of men who are devoting their best energies to the cause of professional education, the teaching of the law has been placed upon a university basis, so to speak. The first step in the way of improvement and, in my judgment, the most important one, lay in the change of policy in regard to the teaching force, a change which involved the recognition of law teaching as a profession and secured the employment of trained men whose chief energies are given to the work of the school. As a result, in our leading university law schools, the practitioners, who formerly constituted the corps of instruction, have been superseded very largely by men who are making the study and teaching of the science of the law a life work. These men have the opportunity, and they are very generally taking advantage of it, for the solution of the educational problems connected with law teaching, which the active practitioner could never have. As a rule, they are men who have had experience at the bar, but their training or temperament leads them to prefer the life of the student and teacher. Under the stimulus of the new régime, or because they are

required to do so, teachers who are also engaged in practice, very generally, at the present time, subordinate professional engagements to their university duties. The membership of faculties has also very generally been increased, in order to meet the demands of the modern methods for individual work with the student. The visitor to any of the university law schools of to-day will find, instead of the formal lecture from the practitioner that under the old régime was given to all the students without regard to previous study or acquirements, a regular schedule of exercises, usually three of one hour each for each student daily, arranged with reference to the relation of the subjects to one another and the classification of the students, and so carried out, that personal attention can be given to each member of the class. In a word, the course of study to-day is a progressive one, and is pursued in accordance with well-established educational methods. As already indicated, the instruction is largely personal. In most of the subjects the formal lecture has given place to the informal exercise based upon an approved text and adjudicated cases. Wherever the formal lecture is retained, it is supplemented by the careful study of selected cases and by section quizzes upon both lectures and cases. In all the work, the student is subjected to the spur of daily examinations and discussions, conducted with a view of testing his acquirements and at the same time making him familiar with the methods of legal reasoning. While the members of our faculties do not lose sight of the fact that the primary object of the law school should be the training of young men for active work at the bar, and while, with this end in view, they each year provide better facilities for instruction along purely practical lines, they also recognize that the historical and the scientific should not be sacrificed to the practical, and that it is a legitimate and necessary function of the law school of to-day to encourage the study of the law in its larger sense. The extending of the course of study to three years, which has been done in all of our leading universities, furnished the opportunity, at once embraced, for enlarg-

ing the scope of the curriculum and including therein instruction upon the sources and development of our jurisprudence. One of the notable results of these changes has been that the library of the law school has become its workshop. The student early gets the notion, the value of which the practitioner can certainly appreciate, that nothing should be taken by him second-hand, but that he should go to the sources for the verification of propositions.

The foregoing description of the work of the modern university law school is, of course, a general one, but it is substantially correct, I think, and sufficiently specific for the purposes of this paper. The description, however, would be incomplete without the statement that the requirements for admission are now of a grade to insure a fair degree of fitness for professional study, and that in the term and final examinations a high standard of excellence is required to insure promotion or graduation. In two of the university schools the candidate for the degree in law must be a graduate of an approved college or university, while in all of the leading university schools he must have had at least a college preparatory training.

The changes of the past few years that I have briefly sketched are certainly significant. They mean much from a professional point of view. It is not extravagant, I am sure, to expect that through them the general efficiency of the practicing lawyer will be increased and the standards of the profession raised. The influence of the movement has made itself felt in several of the States through legislation that has extended the period of study to three years, made at least a high school training or its equivalent a prerequisite to law study, and raised the standard of preparation for the bar by placing all examinations for admission in the hands of a permanent state commission. But the changes mean much also for education generally. Through them the law school has come into touch with a larger constituency; it now makes its influence felt as an important factor in university life. In sympathy with modern educational

methods, insisting upon standards of the highest order, and guided by university ideals, it at present contributes in a large measure to the intellectual life of the university with which it is connected and the general opportunities offered by a university residence. The evidences of this are found not only in its greater prominence in the general life and general functions of the university, but also in a direct recognition of the value for general educational purposes of much of the law-school work. This recognition is seen in the legislation of several of our universities by which the academic or literary student may receive credit toward his literary degree for designated professional courses, and thereby shorten his period of residence for both literary and law degrees. The success of this departure has suggested the inquiry, which is now receiving serious attention, as to whether even greater liberality in the election of work in professional departments might not, with propriety and safety, be accorded to the literary or general student—not a liberality by which it would be possible for him to shorten the period of residence now required for both degrees, but a liberality by which he might elect, under proper regulations and restrictions, professional courses, particularly those that have to do with the history and development of our jurisprudence, as a part of his general training. As the civil life of a people is so largely wrapped up in its jurisprudence, it would seem that the study of the history and development of the law might well be made a part of a liberal education. That the law school is becoming a factor in general education, not only indirectly but also directly, is further apparent from the fact that among those in attendance are to be found a very considerable number who are there for special work and not for professional purposes. The number in this class, already large in some of our schools, is each year increasing. Young men who are looking forward to business as a life-work not infrequently enter the law school for the business preparation that the study of the law affords. Some come directly from the high school, others from a year or two of study in general

university courses, while still others combine law courses with the more practical courses offered by the academic department. Furthermore, in the recent movement in several of our leading universities by which provision has been made for scientific training in the "structure and organization of modern industry and commerce," and for instruction in the fundamental principles of public administration, the law school has necessarily figured as an important factor. The "Announcement of Special Courses in Higher Commercial Education and Public Administration," recently issued by one of our large universities, includes eighteen courses given by members of the law faculty. Six of these are outside of the regular law-school schedule and are designed "to instruct students in the fundamental principles of law so far as these principles pertain to the ordinary activities of business life;" the others are regular professional courses to which students pursuing the branches indicated may be admitted for credit. The rewards which commerce and large business enterprises now offer to men with constructive and administrative ability are undoubtedly attracting the best intellect of the day. One need not be endowed with prophetic vision to see that our universities, if they are to keep abreast with the times and in touch with the people, must, in the future, make large provisions to meet the demands for special and scientific training in these directions, and that instruction in the fundamental principles of jurisprudence must be an essential part of that training. A further indication of the trend of opinion in regard to the value of legal study for general educational purposes is seen in the fact that several of our colleges and universities that have no departments of law have provided for instruction in legal subjects, not primarily for professional purposes, but as a part of an undergraduate curriculum.

The day has certainly gone by when the general education offered by our universities can properly be confined within the limits of a single department. That the law school, through the thoroughness of its instruction and the widening demands

in connection with general education, has become an important factor in our university system cannot admit of a doubt. New responsibilities have come to it for which it must provide. While it must in the future, as at present, be first a professional school, it must also be more than a professional school. It must furnish increasing facilities in order to meet the requirements of its new constituency. I cannot look upon the present tendencies as other than fortunate both from the professional and the educational point of view. They mean greater thoroughness, higher standards and a wider range of opportunity for the law student and a broadening of the horizon of general study in a direction that the spirit of the times and the needs of our modern business life demand.

PROCEEDINGS
OF THE
SECTION OF PATENT, TRADE MARK AND
COPYRIGHT LAW.

August 29, 1900, 3 P. M.

A meeting of the Section was held, Frederick P. Fish, of Boston, Chairman of the Section, in the Chair.

Present: Edmund Wetmore, of New York; R. S. Taylor, of Indiana; Lester L. Bond, of Illinois; Melville Church, of the District of Columbia; Charles Martindale, of Indiana; Arthur P. Greeley, of the District of Columbia; William C. Strawbridge, of Pennsylvania; Francis Rawle, of Pennsylvania; J. Nota McGill, of the District of Columbia; H. C. Levis, of New York; E. M. Bartlett, of Nebraska; C. A. Dudley, of Iowa; B. A. Rich, of New York; J. W. Terry, of Texas; A. H. Walker, of New York, and James I. Kay, of Pennsylvania.

In the absence of the Secretary, Arthur Steuart, James I. Kay, of Pennsylvania, was elected Secretary, *pro tempore*.

The Address of F. P. Fish, Chairman, was then read.

(See the Address at end of these Minutes.)

The report of the Committee on Procedure in Federal Courts was then presented by Robert S. Taylor, of Indiana.

(See the Report at end of these Minutes.)

After remarks on the subject by L. L. Bond, Melville Church, Francis Rawle, Edmund Wetmore, W. C. Strawbridge and J. I. Kay, on motion of Edmund Wetmore, the following resolution was adopted:

That the Section approve the principles of the report and request the Standing Committee on Patents to prepare a bill

which shall follow its general principles, with such modifications as they think best, and present it to the Association at its next meeting.

The report of the Committee on Patent Office Practice, signed by J. I. Kay and M. Church, was then read by J. I. Kay.

(See the Report at end of these Minutes.)

After the reading of the report, on motion of R. S. Taylor, the following resolution was adopted :

That the recommendations of the committee in regard to Rule 41 be concurred with, and that the committee be continued with instructions to continue its efforts for the amendment of the rule as proposed in the report at such a time and manner as shall seem to it best.

The report of the committee also referred to the number of appeals in the Patent Office, and stated that it was believed there was no necessity for so many appeals, and recommended the appointment of a special committee to consider the matter, with instructions to report a form of bill which would give the necessary form of relief.

As to this part of the report, discussion was had by Messrs. Church, Kay, Bond, Greeley, Wetmore, and the Chairman, and, on motion of Edmund Wetmore, the following resolution was adopted :

That the recommendation of the report as to the appointment of such special committee be adopted, the committee to report the form of bill to the Standing Committee on Patents.

The Chair referred to certain corrections to be made in the report of the Committee on Trade Marks, copies of which had been printed and circulated, and after discussion of the matter, on motion of Edmund Wetmore, it was resolved :

That the Chairman, in presenting the report of the Committee on Trade Marks to the Association, call attention to the fact that the proposed bill appended to the report is at present not in final form, but that the bill to be finally approved will

be that presented in conjunction with the bill to be prepared by the committee appointed by Congress, as stated in the report.

Thursday, August 30, 1900, 3 P. M.

Frederick P. Fish, Chairman of the Section, in the Chair.

A paper by Arthur Steuart, of Maryland, entitled "Copyright for Design" was then read by the Secretary.

(See the Paper at end of these Minutes.)

Discussion was then had upon the paper by Messrs. Greeley, Wetmore, Taylor, McGill, Bond, and the Chairman.

On motion of Edmund Wetmore, it was resolved that the matter be referred to the Standing Committee to consider the whole subject of copyright protection and to take such action as was considered proper.

A paper entitled "Unfair Competition in Trade," by Lysander Hill, of Illinois, was then read by Melville Church.

Discussion was had upon the paper, and upon the general subject of unfair competition in trade, including the sending of letters threatening suit for infringement, by Messrs. Walker, Strawbridge, Greeley, Rawle, Kay, Taylor, and the Chairman.

On motion of Francis Rawle it was resolved that the Chairman of the Committee on Patent, Trade Mark and Copyright Law move before the Association at its session to-morrow that the question as to how to deal with the existing laws in such way as to obtain uniformity of decision in patent, trade mark and copyright cases, be referred to the Standing Committee on Patent, Trade Mark and Copyright Law.

A resolution was adopted that the Chairman be instructed to confer with the Committee on Publications and request the publication of Lysander Hill's Address, and also the publication of the Report made by R. S. Taylor referring to the creation of a Court of Patent Appeals.

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The Chair announced the committee to draft a bill as to appeals in the Patent Office as follows: Melville Church, A. P. Greeley and W. C. Strawbridge.

It was moved by R. S. Taylor that the present officers of the Section be continued for the next year. The motion was put and carried unanimously.

On motion adjourned.

J. I. KAY,
Secretary pro tempore.

ADDRESS
OF
FREDERICK P. FISH,
OF MASSACHUSETTS,
AS CHAIRMAN OF THE SECTION OF PATENT, TRADE MARK AND
COPYRIGHT LAW.

In opening this session, I propose to confine myself to certain specific suggestions as to lines upon which it may be well for us to work.

It is a primary duty of this Section of the American Bar Association to consider at its meetings the laws relating to patents, trade marks and copyrights, to call attention to defects in those laws and in the administration of them and to suggest and discuss improvements in those laws. In dealing with such questions we must, of course, avoid all personal eccentricities and consider only the general interests of the people of the United States which are so intimately involved in the patent, trade mark and copyright systems of the country. There is no doubt that there are constantly occurring to each one of us many points in which, it seems to us, the law is defective and where a change might be introduced to advantage. We should always bear in mind, however, that, taken by and large, property in patents, trade marks and copyrights has been protected and respected at substantially its real value from the time of the earliest legislation upon the subject, while at the same time the rights of the public have been fully recognized and that we should be very certain that a change will be of substantial advantage, not to individual interests but to the community as a whole, before we commit ourselves to advocating even slight modifications of a system that has, on the whole, worked well. There are however, certain matters which as it seems to me, we should surely consider, and to those I desire to draw your attention.

A COURT OF PATENT APPEALS.

There is one matter of transcendent importance at the present time which undoubtedly requires the attention of all who are interested in the patent system of the United States. I refer to the establishment of a single Court of Patent Appeals which shall pass finally upon all patent causes throughout the United States. Such a court has always been almost a necessity to the patent system. Prior to the Act of 1891 establishing the Courts of Appeal, all patent causes could be carried to the Supreme Court of the United States and although for many years the delay involved in presenting a case on appeal to that court was most unfortunate, particularly in view of the fact that patents are granted for a limited term, the change in the law by which, outside of the District Columbia, nine independent courts of appeal were substituted for the Supreme Court, has resulted disastrously in patent matters, not only to patentees but to the public generally. The serious difficulty is not that different Courts of Appeal differ as to the scope and validity of particular patents, although there have been, in special cases, as we all know, most unfortunate divergences of opinion between the different courts, and now that the Supreme Court has determined in the case of *Mast, Foos & Company vs. Stover Manufacturing Company*, that "comity is not a rule of law but one of practice, convenience and expediency" and something, but little, more than "mere courtesy" having no "imperative obligation," such divergence of views as to particular patents is more likely to occur in the future than in the past. In fact, it is not at all impossible that the time may come when we shall be face to face with the intolerable situation of a number of patents that are valid and controlling as to a certain construction in one part of the United States and not in another and this evil will be mitigated to a slight extent only by the circumstance that the Supreme Court may, in its discretion, review the decisions of the lower courts by a *certiorari* proceeding.

The more serious defect of the present system is however, that each of the nine Circuit Courts of Appeal is sure to apply the recognized rules of law and of interpretation, in the various patent cases that come before it, from the point of view of its own special attitude on the subjects of inventions and infringement and of liberal or strict construction. A patent submitted to the court in one circuit will be sustained and the defendant held to infringe because the Court of Appeals of that circuit is inclined to resolve the doubt in any case in which the invention has been of substantial utility, in favor of the patent, while the same patent, if subjected to the ordeal of litigation in another circuit, would be held invalid or of narrow scope because the court in the circuit last referred to is inclined to deal strictly or even harshly with patent property. In both cases the courts will apply the same rules of law and in both cases their opinions, although diametrically opposite in result, will be based upon the same authorities and the same principles. But in applying those authorities and principles, the real determining influence will be the feeling of the court as to the spirit which should prevail, and as we all know, conclusions on their face sound but absolutely at variance, may easily be reached in many cases by tribunals equally competent and equally anxious to do exact justice. Even therefore if there are not many cases in which different Courts of Appeal differ as to the same patent, the spirit in which the nine courts will act in patent cases generally will be different in the different circuits, so that we shall have practically an absolute want of uniformity in the administration of the patent law, with results of the most unfortunate character. Only those especially acquainted with the facts will be able to discover, in comparing the decisions in the different circuits, that they are based upon radically different conceptions of the point of view from which courts should approach questions relating to the validity and scope of patents. But vital differences will exist, and a branch of the law which should be certain and definite and uniform in its application

throughout the whole country, will become absolutely uncertain and in effect modified in each of the nine circuits, in accordance with the special underlying views developed and applied in each circuit. The least of the misfortunes to which the patent system will surely be exposed, if the present condition of things continues, is that in no two circuits will a patentee's chances of success or defeat be the same, and the accident of the forum in which a case is tried will be a circumstance largely controlling its outcome. When we consider in addition that the logical result of this situation will be that in time certain patents may be capable of enforcement in one circuit and not in another, or, to put the matter differently, that a man who would be held as an infringer in one circuit might be quite safe in another, we get to a condition of things which cannot be endured.

The only relief to the situation that seems possible is the establishment of a single appellate court which will dispose finally of all patent cases in the country. It seems to me an imperative duty on the part of this Section of the American Bar Association to deal firmly but conservatively with the problem of securing such a Court of Patent Appeals. In all probability it will have to be a new and independent tribunal inasmuch as it is not probable that Congress can ever be induced to restore jurisdiction in patent cases to the Supreme Court.

A sub-committee of this Section has given much thought to this subject and its Chairman will present to you in his paper a plan that commends itself as feasible to many who have considered it. I trust that you will all give careful attention to this paper and that something may be developed from the plan suggested which will prove to be a solution of the manifest difficulties of the present situation.

I myself have heard of no objection to an independent patent Court of Appeals except the question, asked sometimes without reflection, why there should be a special appellate court for patents if other branches of litigation can be satisfactorily

dealt with by the nine individual Courts of Appeal. The answer to this question is so obvious that I am surprised that it should ever be asked. The reason why there should be one Court of Appeals in patent matters is because each patent covers the whole United States and a suit on it is in reality one between the patentee and all the people of the United States, the issue being the right of the patentee to exclude the public for a time from the use, without his consent, of the thing patented or alleged to be patented. When brought into litigation, the patent should be dealt with once for all by an appellate court whose conclusions would be binding upon the courts and people of the entire United States. It is only in this way that the patentee and the public generally can become assured of the extent and limitation of their respective rights. Moreover, all patents should be dealt with not only in accordance with the same rules of law, but with the same spirit and from the same point of view, and this is possible only when as to all patent questions there is a single court of last resort. If such a court were quasi permanent in character, as it should be, it would soon develop a definiteness of view and a uniformity of tradition which would give to the administration of the patent laws a completeness and certainty which, to the great disadvantage of the community, does not characterize their present administration.

The same reasons, although not to the same degree, exist for a single appellate court in trade mark and copyright cases, and I should assume that such cases, as well as those based upon letters patent, would come before any single Court of Appeals that might be established for the final determination of patent cases.

PATENT BILL H. R. 8073.

I trust that the members of this Section will give careful attention to the bill which I understand to have been prepared at the suggestion or with the approval of the Commissioner of Patents, and entitled: "A bill to provide for lessening the

number of appeals in applications for patents. H. R. 8073." This bill, in effect, abolishes the Board of Examiners-in-Chief in the Patent Office, and provides that all appeals in the Patent Office shall be heard by a tribunal to be made up of the Commissioner of Patents and three Assistant Commissioners, three out of the four constituting a quorum in appeals dealing with the merits. *Ex parte* appeals from the Patent Office to the courts are abolished, but appeals in interference cases to the Court of Appeals of the District of Columbia may be taken, as under the present law.

Personally, I am inclined to approve the principle of this bill. There is no reason why there should be a possibility of three appeals on an application for a patent, with a subsequent right, under the provisions of the Revised Statutes, to bring a bill in equity in the courts, nor is there any reason why there should be two appeals in the Patent Office in an interference proceeding.

PATENT OFFICE RULE 141.

During the past year your sub-committee on Patent Office Practice has actively interested itself in the Patent Office rule requiring a division between process and product and process and apparatus inventions, even in those cases in which the so-called process and product or process and apparatus are really but two different statements of one and the same inventive idea. This matter, which is of great practical importance, will be presented to you in the report of your sub-committee. It does not seem to me that the Patent Office rule at present in force is fair or reasonable, and I invite your careful attention to the question whether action on the part of this Section to secure a further amendment to the rule is not desirable.

COPYRIGHTS.

The existing copyright act of the United States is not the result of careful and intelligent revision, but of a gradual

growth—one amendment after another having been made to the original act without proper consideration of their relation to the act as a whole. At the present time this act is full of inconsistencies, some of them of the most extraordinary character. I respectfully suggest the appointment of a sub-committee to consider the copyright law, with the view of determining whether effort should not be made to remove the ambiguities and uncertainties which disfigure that law, without necessarily changing it in any way in substance or intent.

If such a sub-committee were appointed, it should be authorized to confer with counsel outside of the Association who are interested in copyright law, and to report a revision of the copyright act at the next meeting of the American Bar Association.

TRADE MARKS.

The sub-committee on trade mark legislation has submitted to the American Bar Association a revised draft of the bill which it is prepared to advocate. It is undoubtedly impossible to accomplish anything by way of trade mark legislation until the Commissioners appointed by Congress, June 4, 1898, have made their report. When that report is made it will be incumbent upon all the members of this Section to study carefully the legislation proposed both by the Commissioners and by the American Bar Association with the view of determining exactly the lines upon which the present trade mark law should be amended. In dealing with this subject, it seems to me very clear that Congress should not overlook and that the members of this Section should not overlook the fact that at the present time no class of intangible property is so thoroughly protected by the courts under the laws now existing as that class of property which may be generally described as trade mark property.

We can not point to any definite and tangible results in relation to patent, trade mark and copyright law achieved by us during the past year. The time has not been ripe nor

have the conditions been favorable for seeking legislation in any direction. It is at least doubtful if anything can be accomplished during the next session of Congress. Much thought has, however, been given to the questions which particularly interest this Section, and I believe that if we wait patiently and act intelligently, the time will come when we shall be able to contribute substantially to the well-being of the community by advocating and securing proper legislation. We can in any event do much by way of opposing legislation which is likely to prove harmful. Against the danger of harmful legislation, we must be systematically on our guard. In every Congress are introduced bills of the most destructive character and showing a most deplorable lack of information and knowledge as to the requirements of the patent, trade mark and copyright systems of the United States and as to their merits as well as their defects. It is even more important that bad legislation should be prevented than that the existing law should be improved and the members of this Section individually and collectively should take the steps necessary to oppose unwise legislation. The committees of Congress require only to be informed on the subject to refuse to give their assent to suggestions that are likely to be harmful. The difficulty is that every now and then a matter which seems entirely innocent in character and which is accepted by the committees in Congress as such, but which in fact is really harmful, is embodied in the form of a law, simply because Congress has never been properly instructed as to the real scope of the proposed measure. A striking instance of this sort is the passage by the last Congress, at the very close of its session, of the Act of June 6, 1900, amending Section 7 of the Court of Appeals Act of 1891. Section 7 of the original act provided that there should be an appeal to the Court of Appeals from an interlocutory order or decree of a circuit or district court granting or continuing an injunction in any case in which an appeal from a final decree might be taken under the provisions of the Act. By the Act of February 18, 1895, the Act of 1891 was amended so that

there was a similar right of appeal from an interlocutory order or decree refusing or dissolving an injunction. This amendment of 1895 was passed without opposition, judges, lawyers and the public alike recognizing its necessity, for it was clear that as much harm might be done by improperly refusing an injunction where one was necessary, as by the improvident grant of one where it should have been refused. Moreover, if by the same interlocutory order or decree a prayer for injunction is granted in part and refused in part, the defendant may appeal but the complainant cannot appeal. This is unreasonable, and greatly adds to the work of the courts.

Now by the amendment of June 6, 1900, Section 7 of the Act of 1891 has been again changed in such a way that the amendment of February 18, 1895, has been abrogated so that it is no longer possible to appeal from an interlocutory order or decree refusing or dissolving an injunction.

The amendment of June 6, 1900, seems to have been intended primarily to secure the right to appeal from an interlocutory order or decree appointing a receiver and it is quite possible that Congress in passing that amendment had no thought that it was thereby repealing the Act of February 18, 1895.

It seems to me that we must all agree that an effort should be made to restore the amendment of February 18, 1895, for every sound reason which exists for allowing an appeal from an interlocutory order or decree granting an injunction applies to the case in which an injunction has been refused.

This is a question which I respectfully submit for your consideration.

UNFAIR COMPETITION IN TRADE.

BY

LYSANDER HILL,
OF CHICAGO, ILLINOIS.

The subject of unfair competition in business is one of wide range, embracing transactions of the most diverse character. It extends to all cases in which one commercial rival unfairly seeks to profit at the expense and disadvantage of another, by directly or indirectly causing the public to act as an unconscious agent or means for carrying out the scheme. It differs from ordinary cheating in that it always involves this element of using the public, or its instrumentalities or quasi instrumentalities, as a means for perpetrating the fraud. It therefore necessarily involves three parties to the transaction, namely, first, the perpetrator of the fraud; second, the public, either directly or through its authorized instrumentalities; and, third, the injured competitor. It exists wherever the first party, through the agency or means of the second, attempts an unfair scheme against the business of the third. Obviously, from the nature of the subject, it is quite impossible to catalogue all the various ways in which such attempts may be made; but cases of unfair competition may be roughly classified as follows:

1. Those in which combinations are formed for the purpose of driving competitors out of the field, or compelling them unfairly to reduce their prices or profits, and thus casting upon them a heavy burden in the race of competition. This class includes cases of unfair arrangements with public carriers or warehousemen for rates or terms of transportation or storage more favorable than are awarded to competitors, and also cases where the combination seeks to maintain the prices of its members, but to reduce prices as against competitors outside of the

combination. It does not include legitimate combinations of capital for the purpose of saving running expenses, and thereby, perhaps, ultimately lowering prices to the general public, nor "trusts" for the mere purpose of maintaining or raising prices, which, although unlawful on grounds of public policy, contain no elements of unfair competition, and, therefore, are not germane to the present discussion.

2. Those in which a business concern seeks, by lying representations, oral, written, or printed, to draw away and divert to itself the public patronage enjoyed by a competitor.

3. Those in which a party, by means of what Mr. Justice Brown (*Coats vs. Thread Co.*, 149 U. S. 562), aptly terms "imitative devices," seeks to beguile the public into patronizing him under the impression that they are patronizing his rival.

The settled principle of law is, that, with respect to a business which in any way depends upon the public favor, rival concerns shall deal openly and fairly towards each other and the public, to the end that whosoever will, may, by his skill and integrity, acquire and hold the patronage of the public, and be protected against unfair attempts to deprive him of its benefits. The courts, both of law and of equity, are keenly sensitive to any effort which violates this principle; and to their credit be it said that it is doubtful if human ingenuity can invent any scheme for that purpose, so subtle that a court of equity will not be able to penetrate its disguise, and will not be swift to interfere with its accomplishment and to punish its authors so far as lies within the authority of the chancellor. It is even probable that a court of equity would disregard its ancient traditions by taking jurisdiction of a case of libel or slander, provided it were made to appear that the libel was a continuing one, and that its design was to prejudice the public against a competitor and thus secure an unfair advantage in business.

By reason of this judicial repugnance to all attempts to misuse the public conveniences or deceive the public itself, to

the disadvantage of a competitor, it is comparatively easy for the injured party to obtain, by injunction or otherwise, complete redress for his grievances. It is only necessary for him to go to the proper court, present the facts in such a way that they can be understood, and await the result. It is not too much to say, that in no class of cases that come before the judicial department, is the plaintiff so strongly favored as in those which involve the allegation of unfair competition in trade on the part of the defendant; because in such cases it is always within the power of the court to make an order which shall be perfectly fair to both parties, but which shall at the same time prevent any future possibility of the evil complained of. It would be unfruitful, therefore, to consume further time in discussing the general character of unfair competition in trade, because the law itself is so simple and plain that even a child can understand it, and there are absolutely no limitations upon its enforcement, no judicial disinclination to enforce it, and no need of any other remedy than injunction and damages.

But it often happens that where there is no difficulty in understanding the law itself, and no judicial indisposition to enforce it, serious difficulties are encountered in its application to the particular facts of cases as they arise; and it remains for us to consider whether any, and, if so, what, difficulties present themselves in the application of the laws relating to unfair competition in trade.

One difficulty, common to all three classes of unfair competition cases, is liable to arise on the question of jurisdiction. In the absence of Federal statutory provisions, the state courts would have jurisdiction of all such cases, and the Federal courts would have concurrent jurisdiction only where the parties were citizens of different States. But the Federal Government, under the constitutional power to regulate interstate and foreign commerce, has enacted what is called the Inter-State Commerce Act, prohibiting, among other things, unfair arrangements with common carriers engaged in inter-state or foreign trade; and, under the same constitu-

tional power, it has enacted the Anti-trust Act, prohibiting all acts in restraint of such commerce, and has also enacted statutes providing for the registration of trade-marks employed in commerce with foreign nations or Indian tribes; and to enforce the provisions of these acts the Federal courts have, of course, exclusive jurisdiction.

With respect to the inter-state commerce and anti-trust acts, the Supreme Court has, by a long series of decisions culminating in the *Addyston* case, 175 U. S., settled the constitutionality of the acts, and rendered the jurisdictional questions under them so clear that there is little danger of further misunderstanding on those questions. These two acts contain many provisions affecting only the general public, and, therefore, not germane to the present discussion. So far as they bear upon the subject of unfair competition in trade, they seem to be only declaratory of the principles of the common law hereinabove referred to.

With respect to trade-mark legislation, Congress, in passing the act of July 8, 1870, clearly misapprehended and exceeded the scope of its constitutional powers, by making the statute applicable to trade-marks which do not enter into inter-state or foreign commerce; and the Supreme Court (100 U. S.) having held that act and the supplementary act of August 14, 1876, void for that reason, Congress, unfortunately, rendered over-cautious by the fate of those acts, passed another, which failed to reach the limit of its constitutional powers, because not extended to trade-marks used in inter-state commerce, but only to such as are used in commerce with foreign nations or with Indian tribes. It is to be hoped that this defect will soon be remedied by a further act covering trade-marks used in inter-state commerce; for, until this is done, the federal statute relating to trade-marks is seriously ineffective, and, indeed, almost practically impotent. But in all cases of unfair competition in trade, the question of Federal jurisdiction, so far as it depends upon the distinction between domestic, inter-state, and foreign commerce, has been, by the terms of the

statutes, and the decisions of the Supreme Court under them, made entirely clear.

The questions of jurisdiction which continue to be subject to more or less uncertainty and doubt, are those which arise out of the peculiar character of the acts constituting the defendant's alleged offense, and are confined, almost if not exclusively, to cases in which the trade-mark statute is directly or indirectly brought into controversy. It may be profitable for us to devote a brief time to the consideration of these peculiar difficulties in the application and enforcement of the laws against unfair competition in trade.

More than one hundred and fifty years ago, manufacturers and merchants who had obtained, or expected to obtain, the favor of the public for a particular article placed on the market by them, and who desired to hold their trade in such article, conceived the plan of marking their product in a peculiar way, so that the public should become familiar with the mark and should learn to identify its proprietor's product by means of it. These marks became technically known as "trade-marks." Their office was to certify or warrant the genuineness of the goods upon which they are placed. As Mr. Chief Justice Fuller observes (*Menendez vs. Holt*, 128 U. S. 514, 520), such a mark is equivalent to the signature of its proprietor to a certificate that the goods are his goods, determined by him to possess a certain degree of excellence. In the language of Lord Justice James (*Thorley's Cattle Food Co. vs. Massam*, 42 L. T. Rep. N. S. 857), "It indicates this, a warranty that the article to which it is attached has come from the particular manufacturer of the goods with which buyers have been hitherto pleased." The counterfeiting or fraudulent imitation of such a mark is, therefore, an offense which in its nature is akin to the crime of forging a certificate of warranty, and, although not technically criminal except where made so by statute, the courts are swift to punish it with damages and to arrest its continuance by injunction. The essential requisites of a trade-mark are, that it shall be sufficiently specific or defi-

nite in its character, and not merely descriptive; that, at the time of its adoption, it shall not be used by others on the same class of merchandise; and that it shall not be immoral or deceptive in its intendment.

In the first two trade-mark cases reported (*Blanchard vs. Hill*, 2 Atk. 484, A. D. 1742, and *Singleton vs. Bolton*, 3 Doug. 293, A. D. 1783), Lords Hardwicke and Mansfield held that to maintain a suit on a trade-mark there must be positive evidence of fraudulent intent on the part of the defendant; but in the later case of (*Hogg vs. Kirby*, 8 Ves. 215, A. D. 1803), Lord Eldon took the position approved by all the more recent authorities, that the mere use by the defendant of the plaintiff's specific mark or trade name may create a presumption of fraudulent intent. It has since been settled that the use by the defendant of the plaintiff's specific trade mark raises a conclusive presumption of fraud, and entitles the plaintiff to a decree restraining the infringement (*McLean vs. Fleming*, 96 U. S. 245; *Lawrence Co. vs. Tennessee Co.*, 138 U. S. 537).

So far, all is clear; but now comes the peculiar difficulty which in late years has produced more or less confusion in the minds of some of the courts and of many members of the bar as to the proper application of the law in particular cases.

A manufacturer or merchant may not choose to adopt a specific trade-mark; to the contrary, he may, and often does, elect to dress up his goods or their packages in such a way as to give them a distinctive *general appearance* by which the public can distinguish them from the goods of other manufacturers or dealers. Such distinctive general appearance is not a trade-mark—it is not a certificate or warranty of genuineness—it has no other function than to enable the public to become familiar with the “looks” of his goods, so as to recognize them at sight, just as we recognize an acquaintance, not by the “strawberry mark” on his arm, but, by the entire combination of features which make up his outward personality, or as some ladies recognize each other by the dresses which they wear.

The courts were quick to perceive that when a party has chosen to protect his trade by adopting for his goods a peculiar and distinctive appearance, it would be unfair to allow his rivals to copy or imitate such distinctive appearance and thus confuse or deceive the public as to the origin of the goods; and they commenced to prohibit such copying or imitation on the ground of unfair competition in trade. Cases multiplied, until the term "unfair competition" has substantially come to have a distinctive technical signification, being almost universally employed to distinguish between cases which involve the copying or imitation of a specific trade-mark, on the one hand, and those which involve the copying or imitation of the general appearance of the goods, on the other hand. I have remarked that the act of counterfeiting a specific trade-mark is akin to forgery of a certificate of warranty; and it will readily be seen that the offense of simulating the general appearance of the plaintiff's goods is akin to false personation for purposes of fraudulent deception.

Of course, in cases in the state courts, and in cases in the Federal courts in which the parties are citizens of different states, it is not material whether the suit involve the violation of a trade-mark or only the fraudulent imitation of the general appearance of the plaintiff's product; since the jurisdiction would hold in either event, and the remedy would be the same in both; but in cases in the Federal courts in which there is no diverse citizenship, the difference might be decisive of jurisdiction, for the Federal courts would have exclusive jurisdiction in cases of trade-marks registered under the Federal statute, and the state courts would have exclusive jurisdiction in cases of trade-marks not registered, and in all cases involving the mere simulation of the general appearance of the plaintiff's goods.

It must be admitted that in the reports of recent years there is more or less confusion between trade-mark cases and cases of unfair competition; but after a careful examination of the subject I have been constrained to the opinion that the

confusion is chargeable, in every instance, to some bewilderment or ignorance on the part of the judge or lawyer as to the real distinctive difference between trade-mark violation and other forms of unfair competition by means of imitative devices. Certain it is that the law itself is perfectly plain and simple when once understood; and equally certain it is that quite a number of reported decisions can be accounted for only on the ground that the court did not understand the law. To illustrate: In a comparatively recent case, which I find in the Federal Reporter, where the suit was for the infringement of a trade-mark upon ladies' shoes, the trade-mark consisted in the letter Q with a long flourish substantially enclosing the words "Queen's Quality." This mark was applied on the lining inside of the shoe, and could be seen only upon a careful examination of the shoe. There was no evidence that the plaintiff's and defendant's shoes resembled each other in general appearance to any greater extent than do all shoes intended for ladies' wear. Certainly the Q with its tail enclosing the words "Queen's Quality" could not affect the general appearance of the goods, for it was on the inside, out of ordinary sight. A person who knew that the plaintiff was in the habit of placing this mark within the shoe, would look there for it, and, if he found it there, would inevitably conclude that the genuineness of the shoe was warranted by the plaintiff. The case was, therefore, evidently a pure trade-mark case; but the judge held that he was in doubt whether the bill could be sustained for a trade-mark, and issued the injunction on the ground of "unfair competition." In another case, a bill was filed to restrain the use of the word "Columbia" on packages of closet paper. According to the opinion of the court, the evidence did not show that the packages of the plaintiff and defendant resembled each other except in bearing the same word "Columbia," nor that the word was so applied as to dominate the general appearance of the goods. It did appear, however, that the word fulfilled exactly the functions of a trade-mark, that is to say, it was the

name "Columbia" which caused the goods to sell, by denoting, in the language of Lord Justice James, that they "had come from the particular manufacturer of the goods with which buyers had been hitherto pleased;" and it appeared that persons desiring goods of that make asked for "Columbia" paper. Under such circumstances it is clear that either the word was a trade-mark or the plaintiff was entitled to no protection; but the judge held that he would not sustain the word as a trade-mark, but would grant an injunction on the ground of unfair competition. Such decisions as these (and the number possible to be cited has by no means been exhausted) tend to render the law absolutely unintelligible. They can be explained on no hypothesis except that of a complete bewilderment of the judicial mind on the subjects of trade-marks and unfair competition. They mean, so far as they mean anything, that a specific proprietary mark, having no appreciable effect on the general appearance of the goods, may be protected if you don't call it a trade-mark, but not if you do—in other words, that the whole controversy is over a mere question of names and not of facts or legal principles—a conclusion as far from the truth as can possibly be imagined. Of course, there may be single specific proprietary marks which, in themselves, are so large, obtrusive and conspicuous, as to dominate the general external appearance of the article upon which they are placed; and in such cases they may, as specific marks, be protected as trade-marks, while at the same time, as controlling the general appearance of the goods, they may be protected on the ground of unfair competition in trade; but such cases are extremely rare, and the two decisions to which I have referred present, according to the reports, no such double feature. I am aware of no principle of law that protects a specific mark which is not a trade-mark, unless it dominates the general appearance of the goods, or amounts to a distinctly false representation as to the origin of the defendant's goods.

Nothing comes into existence without an adequate cause. The wide-spread intellectual obfuscation on the subject of trade-marks and unfair competition by means of imitative devices, is undoubtedly due to various co-operating causes; and it may be interesting to point out some of them.

1. The writers of the standard text books on the subject of trade-marks and unfair competition, have contented themselves with bringing together a great jumble of heterogeneous cases, without attempting any philosophical analysis and determination of the legal principle which differentiates them from each other. The bar has, therefore, been trained to rely upon "case law" instead of probing for fundamental legal principles. We need a new text book, prepared by some author who is competent to discuss and discover legal principles, as well as to cite conflicting cases.

2. In the great majority of decided cases, the jurisdiction of the court has covered both trade-marks and unfair competition, and, as the same general procedure and the same remedy were applicable to each, the courts have been led to be careless about discriminating between the principles of the one and those of the other—indeed, so careless as frequently to use general language apparently as applicable to both, which would be correct as to the one but not as to the other. Unfortunately, this very common failure of the judges to be strictly accurate in the use of language, is not confined to cases of trade-marks and unfair competition; but wherever it occurs it is liable to mislead the bar and other courts, creating confusion of ideas and increasing subsequent litigation.

3. The adoption of the term "unfair competition" to distinguish from trade-mark cases that other class of cases in which the general appearance of the goods is simulated, was perhaps unavoidable, but was unfortunate, tending strongly to confusion of ideas. The copying of a specific trade-mark is unfair competition, and is restrained on the general principle of restraining unfair competition, just as fully to all intents and purposes as is the copying of the general appearance of

the goods. Hence, in the use of that expression, "unfair competition," in contradistinction to trade-mark infringement, we are endeavoring to distinguish two classes of cases from each other by employing a term which not only applies to both alike, but is equally applicable to, and used in connection with, other cases having little or no descriptive relation to the two in question—such, for example, as unfair arrangements with common carriers, and unlawful combinations to depress the prices of parties outside of the combination. The use of the term "unfair competition" in the restricted technical sense above referred to, has, however, become so thoroughly established in practice, that it is probably vain to hope for the substitution of a better term. It has undoubtedly been one of the causes contributing to confusion of ideas and inaccuracy of judicial language on the subjects under consideration.

4. Another cause of confusion of ideas is found in the fact that trade-marks are strictly confined to merchantable commodities on the market for sale and general distribution, whereas, "unfair competition," in its proper sense, is not, but applies equally well to things which are in no sense vendible commodities on the market. Thus, in *Knott vs. Morgan*, 2 Keen 213, a passenger-transportation company had painted its omnibuses and clothed its servants in a peculiar way, so that the public should be able to identify them with its business, and the court enjoined a rival from fraudulently imitating these devices; in *Stone vs. Carlan* (13 Monthly L. R. 360), *Marsh vs. Billings* (17 Cushing 322), and *Deitz vs. Lamb* (6 Robertson, N. Y. Sup. Ct. 537), certain hotels had placed their names upon their coaches, and rival concerns were enjoined from using these names upon competing coaches: and in *Lippman vs. Martin* (5 Ohio 120), and a California case a few years ago, a trader had constructed his store front with a peculiar design and ornamentation to attract custom, and a rival was enjoined from using, on a store front alongside, a similar design and ornamentation. These and other analogous cases do not come under the head of trade-mark cases, because

the omnibus lines, hotels, coaches, store fronts, etc., are not vendible commodities on the market for sale; but they are dealt with under the general power of the courts to suppress or punish deceptive and unfair competition in business. While, therefore, in some of these cases, such as those relating to the omnibus lines and the store fronts, the unfair competition consisted in imitating the general appearance of the plaintiffs' carriages, livery and stores, it was not that fact which operated to distinguish the cases from trade-mark cases, but the fact that trade-marks could not apply to such property at all. In others of these cases, as, for example, the hotel cases, the marks or names were of such a character that if they had been employed upon vendible merchandise they clearly would have been trade-marks. They had nothing to do with the general appearance of the property, and, if used on vendible goods in the market for sale, they would not have been protectible on the ground of technical "unfair competition," but only on the ground of trade-mark. For hotels, however, they were protectible on the ground of unfair competition and not of trade-mark; and the courts were not always particular to analyze the principles involved or make clear the distinctions. The underlying reason for protecting these names on hotels, is, of course, the same as that for protecting trade-marks on vendible commodities; and the distinction between the cases and trade-mark cases is merely a technical one, like the distinction between real and personal property or between sealed contracts and simple contracts. They have, however, undoubtedly tended to aggravate the general confusion on the subject, and they will continue to do so unless it be clearly remembered that trade-marks apply only to vendible merchandise on the market for sale; that specific marks on other property, if protectible at all, are protectible only on the ground of unfair competition in business; that specific marks on vendible merchandise are protectible only as trade-marks, unless they dominate the general appearance of the articles upon which they are applied, or amount to a distinctively false representation as

to the origin of defendant's goods; and that, on vendible commodities on the market for sale, the general appearance of the article is protectible only on the ground of technical "unfair competition," and never on the ground of trade-mark.

5. Another fruitful source of confusion is as follows:

I have already, in my classification of cases based upon the general ground of unfair competition, defined one class as consisting of cases "in which a business concern seeks, by lying representations, oral, written, or printed, to draw away and divert to itself the public patronage enjoyed by a competitor." These false representations are to be distinguished from trade-mark infringement, in that they do not consist in the appropriation, upon the goods, of a specific mark already employed by others upon the same class of merchandise; and they are to be distinguished from technical "unfair competition" in that they do not consist in simulating the general appearance of a competitor's goods. They are simply lies told about the origin of the defendant's goods, and intended to deceive the public into buying such goods under the impression that they are buying the plaintiff's product.

Now, a lie can be told in a few words, and sometimes in a single word; and such a lying word or expression can be uttered by placing it on the goods themselves, in which case it may, perhaps, bear a very close resemblance to a counterfeited trade-mark. For example, in *La République Française vs. Schultz*, 102 Fed. Rep. 153, it appeared that the French republic owned, among other mineral springs at Vichy, one named the "Grand Grille," and exported its water extensively. The defendant, at New York City, put up an artificial water and sold it under the label "Vichy (Grand Grille) Charles H. Schultz." The misrepresentation here was bold, and well-calculated to be effective for its purposes; but the court properly enjoined it on the ground of "unfair competition." In so plain a case, there was no occasion for quibbling as to whether the name was a trade-mark or not—as used by the defendant it was a deceptive lie, and that fact gave the court full authority

to prohibit its use. The report of the case is careful to state that there was no similarity in the appearance of the bottles used by the parties; but this fact was no consequence, because the fraud consisted not in simulating the general appearance of the goods, but in lying about the origin of the defendant's goods. The same principle governs many cases in which the defendant, manufacturing at one place, represents his goods as made at another place, or where the defendant uses a personal name which has become intimately identified with the plaintiff's manufacture. In all these cases the plaintiff is entitled to an injunction—not on the ground that the defendant has simulated the general appearance of the plaintiff's goods, and, in many cases, not that he has violated a trade-mark, but on the ground that he has endeavored to supplant the plaintiff in the market by lying about his own goods. Falsehood, to the injury of a rival's business, embodies the very essence of unfair competition; and no matter how deceptively it may be disguised, it will be suppressed when its real nature is discovered.

But it is evident that a false and misleading word, imposed upon the goods, may bear a very deceptive resemblance to a trade-mark, and that, to a hasty or superficial reader, its suppression on the ground of unfair competition instead of trade-mark infringement might seem inexplicable. It is to be remarked, however, that if it did actually resemble a lawful trade-mark used by the plaintiff, it might properly be suppressed on either ground.

6. Another thing has tended, in no small degree, to create mental confusion on this general subject. Both in suits brought for the violation of a specific trade-mark, and in suits for lying representations about the origin of the defendant's goods, it often happens that the defendant undertakes to justify himself on the ground that his offense was unintentional—that he did not mean to invade any right of the plaintiff—and thus his motives become a subject of inquiry by the court. In such cases, it is very common for the courts to go beyond the specific offense declared upon and investigate the whole conduct of the

defendant relating to the matter in question; and if it finds that he has not only simulated the specific trade-mark, or made use of a lying representation upon the goods, but has also closely copied or simulated the general appearance of the plaintiff's goods, it is very liable to decide against the alleged honesty of his motives, and inflict upon him the severest penalties of the law. In a simple trade-mark case, this mixing up of the defendant's simulation of the trade-mark with his simulation of the general appearance of the plaintiff's goods, though perfectly proper to be inquired into under the circumstances, is extremely liable to produce hopeless confusion in the mind of a careless or superficial investigator. Finding the court, in a pure trade-mark case, discussing at great length, and laying particular stress upon, the defendant's simulation of the general appearance of the plaintiff's goods, he jumps to the conclusion that there is absolutely no way of distinguishing trade-mark infringement from technical "unfair competition;" and if he be seated upon the bench, this mental confusion is almost certain to appear in his subsequent decisions. The same trouble was liable to occur, and frequently did occur, in cases where the court had jurisdiction of both offenses, and the proofs raised the question whether the defendant had not been guilty of both. In such cases, the court would have to discuss both the simulation of a single mark and the simulation of the general appearance of the goods; and it not infrequently, in its opinion, mixed up these two subjects in such a way as to add to the general confusion. It is refreshing to find occasionally a case like that of *Potter Co. vs. Pasfield Soap Co.*, 102 Fed. Rep. 490, where Judge Thomas, in delivering his opinion in a case of this kind, clearly discriminated between such portions of the evidence as bear on the question of trade-marks, and such other portions as bear only upon the subject of unfair competition in trade.

The six causes above mentioned are, undoubtedly, mainly responsible for whatever misunderstanding may at present exist as to the distinction between trade-mark infringement

and unfair competition in the restricted technical sense in which the latter expression has come to be generally used.

Legislation upon the subject of trade-marks has not been confined to the Federal government. Many of the states have passed acts upon the subject, providing for the registration of trade-marks and penalizing their violation. In enforcing the penal provisions of these statutes, the same jurisdictional difficulty which we have been considering in connection with the federal statute is liable occasionally to arise, unless the courts and the bar keep clearly in mind the legal difference between simulating a specific mark upon an article of merchandise and simulating the general appearance of the entire article.

A recent commentator has remarked that "the tendency of the courts at the present time, especially in America, seems to be to restrict the field of technical trade-marks;" and one of the Federal Circuit Courts has lately re-echoed this sentiment. I am, however, unable to agree with the statement, and believe that it originated merely in the prevalent confusion of ideas on the subject. The right to adopt and maintain a specific trade-mark for any article of merchandise, and the remedies for its violation, are enforced as readily and as fully in the American as in the English courts, and, so far as I have observed, upon precisely the same grounds. But it is true that if, in any particular case, the evidence shows unfair competition irrespective of the question of trade-mark, courts which have jurisdiction of both subjects are very apt to base their decision, in that case, on the broader rather than on the narrower and more technical ground.

In making these few remarks, I have been influenced by a desire to contribute something towards the relief of the subject from its present embarrassments. It seems to me that the law relating to unfair competition in business, in all the varying outward forms in which that subject may come before the courts, is as clear as any upon any other subject of judicial inquiry; and that all that is needed is, a clearer general understanding of the principles involved, and of the nature and meaning of

certain technical distinctions which have grown up, not arbitrarily but necessarily, in attempting to apply general principles to different classes of particular cases, and which, when clearly understood, will not be found embarrassing in practice. If I have succeeded, to any degree, in clearing the subject, I shall consider myself richly rewarded for the small labor involved in the preparation of this paper.

COPYRIGHT FOR DESIGN.

BY

ARTHUR STEUART,

OF MARYLAND.

I have been convinced for some time past that the manufacturers of the United States would be greatly benefitted, and the salability of American goods in the markets of the world greatly increased, by the liberal application of art to manufactures. There is scarcely any line of manufactured goods in which the appearance, beauty, attractiveness and symmetry cannot be improved, and, when so improved, in which the salability of the goods, the stability of the market for them, and the manufacturer's profit will not be enhanced by any increase in beauty.

The American people are a very practical people, and while they have made great strides in mechanics under the fostering care of the patent system of the United States, they have made very little progress in æsthetics or art as applied to manufactures, largely because they have little artistic instinct, and also because they have not yet fully realized the commercial value of art as applied to manufactures.

The manufacturers of France have set us an example which we can do well to follow; they have not only made a great effort to increase the application of art to their goods, but they have demonstrated for us the immense commercial value of the application of art to every detail of manufacturing.

Some effort is being made to advance art education in the United States, and it is all in the right direction; but the most potent influence which can be brought to bear for the development of art as applied to manufactures is the same influence which has produced such marked results in the development of those manufactures through invention and the rewards of the patent system.

If the manufacturers and artisans of the United States felt that they could with ease, and within a reasonable limit of cost, secure a property right in artistic designs for manufactured goods which would be liberally protected by the courts, it would go further to promote the application of art to the every-day life of the nation than all the schools of art in the land.

This, I believe, can be done, and without the aid of any legislation, but only of construction.

There are two statutes under which artistic designs can be protected.

There is the design patent act of 1870, which permits patents to be granted upon designs more or less artistic, and there is the copyright law especially designed to protect literature and art, but which has not heretofore been invoked to protect designs for manufactured articles of utility, but only such designs as owed their value to the design alone, and had no practical utility other than an æsthetic one.

The design-patent law, while quite broad enough to protect all designs applied to manufactured articles of utility, grants a patent for a maximum term of 14 years, and at a cost to the Government of \$30, and the employment of an attorney is generally necessary, increasing the cost to from \$40 to \$50. This cost is practically prohibitory. In all manufactories where artistic designs are made and used to any extent, they are made in large numbers—so large that to attempt to protect them by design patent would impose a burden upon the manufacturer which he could not support. The practical result is, that not one-tenth of one per cent. of the designs made are patented, the manufacturer finding it better policy to change his designs as soon as his rivals in business begin to copy them, than to attempt to patent and protect them. I believe, however (and I repeat what has been said to me by many manufacturers), that if artistic designs could be protected for the nominal fee imposed upon copyright, that a large number of such designs would be copyrighted and pro-

tected. Manufacturers would thus be encouraged to produce designs of their own, and could reap the profit resulting from their exclusive use, and the copyist would be forced to do original work rather than to rely upon getting designs second hand.

It has been the practice of the Librarian of Congress, when in charge of the registration of copyrights, to refuse registration, under the copyright law, to designs applied to manufactured articles of utility, or what we may designate as commercial articles, no matter how artistic in design they may be. The Librarian of Congress has held that the copyright law was designed only for the protection of such designs as statues and paintings, engravings and illustrations which were artistic, and which owed their value wholly to the artistic work embodied in them, and had no value as articles of commerce, independently. This ruling involved an interpretation of the words "a design intended to be perfected as a work of the fine arts." What the basis of this distinction was we have not been able to discover, other than that Congress has seen fit to pass a law which provided for the patenting of designs, and required therefor the payment of a large fee, and the Librarian considered that it was good policy on the part of the Government to get all the money it could, and hence his duty to reject applications for the registration of designs for commercial articles, and require the applicants to seek their protection under the design-patent law.

There does not seem to be any warrant for this construction in the copyright law. I am of the opinion that there is ample warrant in the copyright law for the protection of designs which are sufficiently artistic to be classed as works of the fine arts, no matter what the use may be which is made of them, and I shall attempt to demonstrate this proposition.

Some light upon this subject may be gathered by considering the history of the legislation upon the subject.

Protection for designs, whether artistic or not, first appears in the Act of July 8, 1870, chapter 230, which was the

general revision of the patent, trade mark and copyright law. Sections 71, 72, 73, 74 and 75 became in the revision of the statutes of the United States, sections 4929, 4930, 4931, 4932 and 4933, which with the addition of the act of 1887 relating to the recovery of a penalty for infringement, constitutes the Design-Patent law of the United States at the present time.

Section 86 contains the following:

“The designer of models or designs intended to be perfected as works of the fine arts shall have the exclusive right of completing, copying, executing, finishing and vending the same.”

Section 88.—“That a designer may have an extension for 14 years.”

Section 90.—“That no person shall be entitled to copyright unless he shall before publication deposit in the mail a printed copy of the title or a description of the model or design for a work of the fine arts and within 10 days from the publication thereof deposit in the mail a photograph of the same addressed to the Librarian of Congress.”

Section 97.—“That no person shall maintain an action for the infringement of his copyright unless he shall give notice thereof if a model or design intended to be perfected and completed as a work of the fine arts by inscribing upon some portion of the face or front thereof, or on the face of the substance on which it is mounted, the following words, etc.”

Section 100.—“That if any person after the recording of the description of any model or design intended to be perfected and executed as a work of the fine arts as herein provided, shall, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, etc. engrave, etch, work, copy, print, publish or import, either in whole or in part, or by varying the main design with intent to evade the law, or knowing the same to be so printed, published or imported,

shall sell, or expose to sale any copy of such map or other article as aforesaid, shall forfeit, etc." The section further provides for the forfeiture of sheets of printed matter found in the possession of the infringer, and a penalty of \$1.00 per sheet, and for a penalty of \$10.00 for every copy of a painting, statue or statuary made by an infringer. The section does not provide any penalty or remedy against the infringer of a model or design for a work of the fine arts.

The next statute was July 18, 1874, chapter 301, in which it was enacted, section 1, "That no person shall maintain an action for an infringement of his copyright, unless he shall give notice thereof . . . if a . . . model or design intended to be perfected and completed as a work of the fine arts by inscribing on some visible portion thereof, or of the substance upon which the same shall be mounted, the following words." Then follows the provision for a short notice as to copyright.

The next act in order is August 1, 1882, chapter 366, which is an amendment to the section last quoted, 4962, Revised Statutes, and is as follows :

"That manufacturers of designs for moulded decorative articles, tiles, plaques or articles of pottery or metal subject to copyright may put the copyright mark prescribed by Section forty-nine hundred and sixty-two of the Revised Statutes, and acts additional thereto, upon the back or bottom of such articles, or in any other place upon them as it has heretofore been usual for manufacturers of such articles to employ for the placing of manufacturers, merchants, and trademarks thereon."

The next Act is March 3d, 1891, chapter 565, an amendment to section 4952, R. S. "The . . . designer or proprietor of any . . . models or designs intended perfected as works of the fine arts . . . shall, upon complying with the provisions of this Chapter, have the sole liberty of . . . completing, copying, executing, finishing and vending the same, etc."

This section introduces the word "proprietor" as one of those entitled to secure copyright, in addition to the author and designer.

Section 4965, Revised Statutes, is re-enacted, but no penalty is provided for the infringement of artistic designs.

The next Act, March 2, 1895, chapter 194, amends section 4965 by creating a remedy for the infringement of copyrighted photographs of objects not works of the fine arts, and also of photographs from objects of the fine arts, and also for models and designs for works of the fine arts, as follows:

" Provided, however, that in case of any such infringement of the copyright of a photograph of any object not a work of the fine arts, the sum to be recovered in actions brought under the provisions of this Section shall be not less than \$100 nor more than \$5,000, and provided further: That in case of any such infringement of the copyright of a painting, drawing, statue, engraving, etching, printing or model or design for a work of the fine arts, the sum to be recovered in any action brought under the provisions of this Section shall be not less than \$250 and not more than \$10,000; one-half of all the foregoing penalties shall go to the proprietors of the copyright and one-half to the use of the United States."

It will thus be seen that during twenty-five years, from 1870 to 1895, the law of the United States in relation to the protection of designs has grown and developed into a very comprehensive system, and that there are two distinct legislative enactments provided for the protection of two classes of designs: First, that provided for by sections 4928 to 4933, and covering designs which are not necessarily works of the fine arts; and, secondly, sections 4952 to 4965 inclusive, covering, among other things, the protection of designs for works of the fine arts. The statute and the practice have created two entirely distinct means of procedure by which the rights and remedies created by these sections of the law are to be secured.

Designs which are not necessarily artistic have been placed within the jurisdiction of the Commissioner of Patents, where an examination into novelty and invention are required, and where the fees to be paid are \$10 for three and a half years, \$15 for seven years and \$30 for fourteen years. The means for protecting artistic designs, however, provided for by the copyright law are simple; no examination is required, no predetermination as to novelty or invention is involved, and the fee is only 50 cents. The remedies for infringement, however, are much greater for the violation of copyright for an artistic design than for the violation of a design patent. The right of recovery for infringement of a design patent is limited to defendant's profits or the complainant's actual damage, with a minimum of \$250. The remedy for the infringement of a copyrighted design for a work of the fine arts is the same remedy—of defendant's profits or complainant's actual damage, with a minimum recovery of \$250 and a possible maximum recovery of \$10,000.

It will thus be seen that Congress has very clearly drawn the distinction between models and designs which are not for works of the fine arts, and models and designs which are for works of the fine arts, and has shown greater liberality toward the artistic designer than toward the inartistic designer. This condition of legislation indicates that it is the purpose of Congress to encourage artistic designing by affording the greatest possible facilities for securing protection for artistic designs at a nominal price and for a maximum term of 42 years. This being the case, it would seem to be the duty of the officers of the Government and of the courts to so construe the law as to give to the artistic designer every possible encouragement and reward.

We come now to the real question involved: What class of designs are to be patented in the United States Patent Office, and what class of designs may be copyrighted? It is very clear that any design which is new and original, and the result of invention, may be patented. It is also true that any design

which can, strictly speaking, be said to be "a work of the fine arts," can be the subject of copyright. This brings us, then, to the question: What is "a work of the fine arts?"

The dictionaries define "fine arts" as follows:

Century Dictionary: "Fine arts: those arts which seek expression through beautiful modes specifically—architecture, sculpture, painting and engraving.

"Decorative art: that branch of art which has for its primary object merely the pleasure of the eye, especially in decoration which is subservient to architectural features, or to forms, as in ceramics."

Worcester:

"The moderns divide the arts into the fine arts, as poetry, music, architecture, painting, sculpture, etc., and the useful or mechanical arts."

Webster:

"The fine arts are those which have primarily to do with imagination and taste, and are applied to the production of what is beautiful—these include poetry, music, painting, engraving, sculpture and architecture."

These definitions might with propriety be expanded to cover any design which is the result of artistic skill and sentiment, and which is suitable for the decoration of any object.

The Librarian of Congress and the Registrar of Copyrights has construed these words to include architectural plans, designs for fountains, buildings, monuments and such like, and have until recently refused, as heretofore stated, to permit the copyrighting of any design, however artistic, which was to be applied to the decoration of manufactured articles of utility, such as spoons, forks, pitchers, vases, wall paper, porcelain and silver ware, etc. In this position we think the Librarian of Congress and the Registrar of Copyrights have been distinctly in error, as is fairly demonstrated by the language of the statute, and particularly the act of 1882, which is an amendment to section 4962. In that act it is expressly provided that the

marking required by 4962 shall in the case of "designs for moulded decorative articles, tiles, plaques or articles of pottery or metal subject to copyright" be put "upon the back or bottom of such articles or in such other place upon them as it has heretofore been usual for manufacturers of such articles to employ for the placing of manufacturers, merchants and trade-marks thereon." Here is a legislative interpretation of the words "design for a work of the fine arts," and Congress says in this section that moulded decorative articles, tiles, plaques, or articles of pottery or metal" which are works of the fine arts, may be protected by copyright. If this be true, then the ruling heretofore made by the Librarian of Congress, that no manufactured article of utility, such as a pitcher of pottery or metal, no matter how artistic the design may be, can be made the subject of copyright, and if it be true that any manufactured article of utility, such as a pitcher of pottery or metal, can be the subject of copyright then the arbitrary distinction raised by the Librarian of Congress must fall. This brings us back to the simple question of whether in fact the design is artistic, which I think is the only question involved. If the design is artistic, it matters not to what use it may be applied, whether to an article of utility which is incidentally decorated, or to an article solely decorative in character.

The only case we have found in which this question has been considered is the case of *Werckmeister vs. Pierce*, 63 F. R. 454, in which Judge Putnam of the First Circuit discusses the act of 1882. He says:

"Next came the act of March 3, 1865, ch. 126 (13 Stat. 540). This is important because it first extended the copyright privilege of photographs, and provided that this extension should inure to the benefit of the authors of photographs 'upon the same conditions as to the authors of prints and engravings.' In other words, when photographs first came into the copyright statutes, they came in under the clear provisions of the fifth section of the act of 1831, requiring the inscription of the notice to be on every copy going out to the

public, and nowhere else. That was the law when the Revised code of July 8, 1870, ch. 230 (16 Stat. 198), was adopted. The provision we are looking for is found in section 97 of that act. This statute first extended the copyright privileges to paintings, statues, statuary, models and designs, and Section 97 was a consequent attempt to cover the additional articles by condensation of phraseology. It was afterwards incorporated into section 4962 of the Revised Statutes. . . . The only remaining act to be considered is that of August 1, 1882, ch. 366 (22 Stat. 181). The main purpose of this Statute was to make sure of the accomplishment of one general purpose of the act of 1874. The latter required that the notice be inscribed on some visible portion of the published articles, while the act of 1882 expressly permitted it, under some circumstances, to go on the back or bottom of such articles although in some senses the back or bottom might not always be visible portions thereof. The reading of the act of August 1, 1882, contains, however, a *legislative construction* of the prior statutes on the point which we are considering. The prior statutes included designs in the same class with maps, charts, photographs and paintings. Therefore, if, with reference to paintings, the inscription is to go on the painting itself, it would follow, as a matter of course, that with reference to models or designs under section 4962 of the R. S. it should appear upon the original models and designs, and not on the articles put on the market constructed according to them. But the act of 1882 says, in terms, that the manufacturer of designs of moulded decorative articles may put the mark prescribed by statute not on the design, but 'upon the back or bottom of such articles.' As the clear purpose of this statute related entirely to the place where, on any particular article, notice might be inscribed, and it clearly was not in any way intended to change the law as to what the inscription shall be impressed on, the effect of this phraseology cannot be mistaken. On the whole, while we must admit that the phraseology of the statute is unfortunate, and might have

been more clearly and positively expressed, we are convinced that, as we have already said, the differences in the various phrases relate entirely to the place on which the notice is to be inscribed, according to the subject matter of the article published, and that, with that exception, the phrases apply alike to *all classes of articles*, and relate entirely to the notices to be inscribed on what goes to the public in various forms and editions; and that there is no requirement that any shall be inscribed on the painting itself, more than there is that there shall be an original or quasi-original map, chart, musical composition, print, cut, engraving, photograph, drawing, chromo, model or design to be inscribed with the notice, as the defendant claims the painting in this case should have been inscribed."

I have recently succeeded in securing copyright registration on the contention above made for a design for a pitcher or tankard made of silver, the design of which is highly artistic, and which was granted copyright protection, notwithstanding the fact that it was a manufactured article of utility. I believe that if this practice can be fully inaugurated, and all artistic designs protected by copyright at the small cost incident thereto, that an immense impetus will be given to designing in the United States, and the application of art to manufactured goods will be greatly encouraged, with the consequent benefit to the manufacturers and to the public.

REPORT
OF
COMMITTEE OF THE SECTION OF PATENT, TRADE-MARK
AND COPYRIGHT LAW.

To the Section of Patent Law of the American Bar Association :

At the last meeting of the Section of Patent Law the undersigned were appointed as a special committee on the "Procedure of Federal Courts in the Trial of Patent Causes" and directed to report at the next meeting. This very general direction appears to leave to the committee a wide discretion as to the particular matter upon which it shall report. In the exercise of that liberty the committee has thought it expedient to bring before the Section a subject which appears to it to be the most important and pressing of the many reforms which patent lawyers would like to see introduced in that department of the law. It may be defined as "A plan for the creation of a single court of last resort in patent causes."

The reasons for the creation of such a court appear to your committee to be many and weighty. There is no occasion to question the wisdom of the statute which created the United States Circuit Courts of Appeals, nor the successful working and great utility of those courts in the general administration of the law ; nor in the administration of the patent law, except in the one respect that it is impossible in the nature of things to have under such a system that certainty of uniformity and harmony of administration which is peculiarly necessary to the attainment of justice in dealing with patents and rights under them.

Property in an invention is a creation of law, and can exist and have value only by the support of the law every day and

in every place. That support can be given beneficially and effectually only by the maintenance of the patentee's possession of his exclusive right—that is, by injunction. Unless that remedy can be invoked with like certainty and effect in any and every part of the country, the patentee has not that exclusive right to make, use and vend the invention which the grant assumes to give him.

Our nine United States Circuit Courts of Appeals are practically nine independent supreme courts as respects the administration of the patent law. The power of review reserved to the Supreme Court is one which, in the nature of things, can be exercised only rarely. It will be used, no doubt, to the extent necessary to settle direct conflicts between Circuit Courts of Appeals respecting the validity of specific patents or specific principles of patent law. But there are divergences which this kind of intervention can not reach—differences of attitude, temper, discretion, estimate of invention—all intangible as air, but real as climate. It is only by keeping in close touch with the trial courts by free and frequent appeals that an appellate court can exercise a controlling influence upon the course of decision in courts inferior to it. This the Supreme Court cannot do.

That such divergences will develop is inevitable. Our circuits are large, widely separated and peopled by populations differing in occupation, habits and interests. Those things affect the courts. Jurisprudence is a growth from the soil of society and is bound to take some color from local conditions.

Under such a system a truly final settlement of the validity and scope of a patent for the whole country is possibly only at the end of nine independent litigations resulting in nine concurring adjudications in the Circuit Courts of Appeals, which is practically impossible, or a judgment of the Supreme Court, which can be reached only by the grant of a *certiorari* after conflicting decisions by Circuit Courts of Appeals, which is equally impossible in a practical sense. Probabilities are

cheap enough. A single decision will create one. Two or more decisions on appeal in concurrent terms would be almost a finality in the estimation of the public. On the other hand, a conflict between the Circuit Courts of Appeals not only leaves the patent which is the subject of conflict wholly undetermined, but produces a distrust of all patents and injures their value in a degree greatly out of proportion to the probabilities of disaster to them in the courts.

The statute promises the inventor the exclusive use and profit of his invention for the short term of the patent. He can realize the benefit of that possession only when the Court has added its sanction by an adjudication of validity. Then, and not until then (with unimportant exceptions), can he ask for an injunction. Until the statute provides means by which the meritorious patentee can obtain that adjudication quickly and in beneficial form, the law will be guilty of a continuous breach of its promise.

We have spoken as though the patentee's interest were the only thing to be considered. Of course, that was only for convenience of illustration. Reasoning from the course of decisions in the country for ten years past, more than half of the patents in existence are void. The pretenses set up by the holders of these void patents, their threats, suits and intimidations, are a wrong toward the public, a disturbance of business and an impediment to progress, against which the community is entitled to prompt and effective protection. Every argument which can be urged against the present system in behalf of patentees, is equally applicable in behalf of the public.

Our laws provide no means by which a citizen who is interested in the question of the validity or scope of a patent, no matter how vitally, can bring suit to test the question. In many cases the questions are difficult and close. Counsel give opinions with hesitation and reservations. They are compelled to this caution not only by the inherent difficulty of the sub-

ject matter, but by the uncertainty attending the adjudication of patents for the reasons pointed out.

The initiation of litigation being thus entirely in the hands of the owners of patents, they can bring suits, or hold their patents *in terrorem* over the public, as they may deem most advantageous to themselves. To the extent that the latter is done—and it is done to a large extent—the patent system becomes an incubus upon business and a check to enterprise.

The rights of the public to be protected against void patents, or extravagant claims under valid patents, and the rights of owners of patents to effective protection of their monopolies can be subserved in one and the same way only, and that is by uniform administration of the law throughout the country. That is not all that is necessary; but without that all else will be ineffectual, and that is attainable only by means of a single court of appeals for patent causes, with jurisdiction coextensive with the United States, to which the cases shall go directly from the trial courts.

If it were possible for the Justices of the Supreme Court to do the work, the obvious solution of the problem would be to restore the appellate jurisdiction in patent causes to that court. But that is impossible. The questions of jurisdiction and constitutional law which must go to that court, and the hearing of appeals which ought to go there from the Circuit Courts of Appeals in other than patent causes and the hearing of patent causes which will come before that Court occasionally under any system, make all the business which it is possible for nine justices to do. Nor would the difficulty be relieved by increasing the number. Twenty-one justices would hear no more arguments than nine, and would consume more time in consultation.

This is the situation now. With the rapid growth of our country in population and business, these difficulties will all increase in future. It appears to the committee that the only practical and permanent solution of the problem is to be found in the creation of a new appellate court inferior to the Supreme

Court, with final jurisdiction in patent causes, subject only to that power of review by the Supreme Court which is necessary to keep it, as the Constitution has declared it shall be, the supreme judicial tribunal of the government.

Your committee presents the following plan for such a court, which it submits for consideration in an outline dealing only with those general features of organization which will naturally be considered first. It is just to say that this plan originated, in its fundamental features, with the present chairman of this Section.

1. The name of the Court to be "The Court of Patent Appeals," or some such designation, its sittings to be at Washington, its jurisdiction to be confined to patents, unless it should be thought best to include also copyright and trademark cases, and to be final in those cases, except that when the court finds itself in disagreement with a decision of the Supreme Court it shall certify the question to the Supreme Court for re-consideration, and except, also, that the Supreme Court shall have power to order any case decided by it to be sent up for review.

2. Its membership to consist of a chief justice and some number, say, six judges; the chief justice to be appointed for life by the President, with the advice and consent of the Senate, from the Circuit judges in office at the time of the passage of the bill, and the acceptance of the appointment to vacate the appointee's office as circuit judge.

3. The other judges to be selected and designated by the Chief Justice of the Supreme Court from among the Circuit Judges, to sit for the stated periods of two, four and six years (assuming the number to be six) at the outset, and after that for periods of six years, as the original period expires.

4. In case of the inability of any judge to sit, by reason of sickness of himself or family, interest in the suit or other cause, the chief justice to have power to designate another circuit judge to sit in his place for a stated time, or for the trial of a particular cause or causes.

5. The judges of the circuit courts to receive, while sitting in the court of patent appeals, the salary and allowance provided for the justices of the Supreme Court, less one thousand dollars or some such sum, per annum; and the chief justice to receive the same salary and allowances provided for the Chief Justice of the Supreme Court, less a like amount.

6. All appeals and writs of error in patent, and possibly, also, in copyright and trade-mark cases, to lie directly from the trial court to the Court of Patent Appeals.

The reasons which commend this plan to us may be briefly summed up as follows:

The substitution of a single court of last resort in patent causes in place of the nine such courts which now exist will make possible the settlement at once and for the whole country of questions affecting the validity and scope of patents. In the nature of the case the question of the validity of a patent can never be irrevocably settled as long as there is a possibility of new issues and new evidence in respect to it. But for practical purposes in a great majority of cases a single decision by a court of last resort concludes the question for all persons within its jurisdiction. A more important advantage than this, however, will be the preservation of unity and harmony in the system as a whole, which, as we have pointed out, is an end of the highest importance and attainable in no other way.

The proposed method of making up the Court will obviate the principal objection which exists to the creation of a court of patent appeals as the proposition has been heretofore commonly presented and considered; which is, that a permanent court consisting of judges appointed for life and occupied in the sole work of deciding patent cases would be liable to grow narrow and technical in its views and procedure. Under the proposed plan the judges would come to the court of patent appeals trained for their work by experience on the bench in the field of general jurisprudence. It would give us a court of judges, and not of mere patent lawyers. And the short

period of service in that court with the change of two members out of seven every two years, would keep the court in close relation with that broad field all the time.

This plan will make necessary some increase in the number of circuit judges, the extent of the increase depending on whether or no some other proposed changes in the general system shall be made. But it will not require any increase that is not necessary in order to do the work under the system now in operation. There will be the same amount of appellate work to do, and it will be done by the same judges in the aggregate.

The creation of a court of patent appeals will relieve the circuit courts of appeals from the hearing of patent causes, and so very considerably diminish the work of those courts. This will leave the circuit judges more time for circuit work. There is a serious embarrassment in the doing of that work by them now, because appeals from their decisions make it necessary to be continually changing the composition of the circuit courts of appeals. Under the proposed plan they could hear patent causes without that embarrassment, so far as their service in the circuit courts of appeals is concerned. A like state of things would exist, of course, but in modified form, in respect to appeals to the court of patent appeals, where a judge, newly appointed, might find causes pending which he had heard in the first instance. But the number of judges in the Court of Patent Appeals as compared with the whole number of circuit judges, and the length of their terms of service would be circumstances reducing that embarrassment to a minor consideration.

It would therefore result naturally from the proposed change that the circuit judges would take up the patent work of that court and so relieve the district judge from it for the larger labor which the bankrupt law has put upon them. This would result in the further advantage of preparing the circuit judges for service in the court of patent appeals by experience in the trial of patent causes upon their first hearing; and still further

would give to the circuit bench in the person of the judges who come back to it from the court of Patent Appeals the very best judges for that special work which experience and training can supply.

There is no other body of men from whom appointments could be made of judges of a court of patent appeals with as much certainty of high fitness for their work as from the circuit judges, and no one else so advantageously situated to make the selections as the Chief Justice of the Supreme Court.

The proposed plan will involve a minimum of change in the present system for the attainment of an equally beneficial change in its working. Only one new official will be required—the chief justice of the new court. The necessary increase of the number of circuit judges can be made gradually, as the business shall demand.

That the proposition to establish a court of patent appeals will meet with objections is to be anticipated. No plan can be offered that will not. It is hardly within the proper scope of this report to go at length into the discussion of that subject, and we shall confine ourselves to two that can be readily foreseen.

One is that the proposed court would be a “class court.” A member of Congress has suggested that objection to one of your committee. He was apprehensive that the creation of a court for patent cases would be followed by a demand for a court for corporation cases, another for insurance cases, and so on.

To this it is to be answered that there would be no good reason for such a consequence. There is no other department of the law so distinctly differentiated from the law generally as the patent law. The nature of the property, the manner of its acquisition and enjoyment and the remedies for injuries to it are all *sui generis*. The general principles of the law are all applied in the administration of patent law, but the distinctive principles of the patent law do not enter into the administration of the general law.

The necessity which exists for a court of patent appeals does not exist in respect to any other class of cases. The removal of appeals in patent cases from the Circuit Courts of Appeals would leave the dockets of those courts in condition to try all other cases with promptness. It would leave no other reason to be urged in behalf of any other class of business for any relief.

It is quite natural that a person should assume at the first blush that the proposed court is to be created in the interest of patentees. But that is not the fact, and any predisposition in the mind of a congressman whose constituents suppose themselves to be interested against patentees, ought to be removed when he is reminded that the courts declare more than half of the patents which come before them to be invalid, and that it is as much to the interest of his constituents that these void patents shall be killed by judgments that reach the whole country at once, as it is to the interest of the owners of valid patents that they shall be sustained by decree of like effect. We ought not to despair of convincing Congress of that which we believe to be true and reasonable. Least of all ought this committee or the American Bar Association to trim its recommendations to fit possible unfounded objections in Congress or elsewhere.

The other objection referred to as a possible one is, that the circuit judges might be unwilling to serve on account of the inconvenience and expense of changing their residences for the short term of their service at Washington. This objection ought to be met by making the place one of sufficient dignity and emolument to be attractive. The court would be only a little lower than the Supreme Court. The difference between the two in salary should be slight; perhaps there need be none at all. At all events there should be such increase of pay over that of circuit judges generally as would relieve the judges from pecuniary loss in going to Washington. Possibly it would be well to make some permanent addition to the *salary* of a judge who had served in the court of patent

appeals. Certainly it would be possible to provide in some way against the necessity of pecuniary sacrifice on the part of the circuit judges accepting assignments to service in that court. Washington is an attractive city, and grows more so. It is not believed that many of the circuit judges would object to going there on terms of just compensation.

We do not deem it necessary to discuss the question whether or no the jurisdiction of the court should extend to trade-mark and copyright cases. That is a detail to be considered later.

Respectfully submitted,

R. S. TAYLOR,
L. L. BOND,
EDMUND WETMORE.

REPORT
OF
COMMITTEE ON PATENT OFFICE PRACTICE.

To the Section of Patent, Trade Mark and Copyright Law :

The Committee on Patent Office Practice reports as follows :

As your Committee understood that the main reason for its appointment was to examine into the addition, made July 18th, 1899, to Rule 41 of the Rules of Practice of the Patent Office, requiring the filing of separate applications for a machine, a process and a product, and as it believed that the necessity for relief in connection with said rule was urgent, it determined to bring the matter before the Commissioner of Patents without waiting to report to this Association, and about November 4th, 1899, sent to a large number of patent attorneys, solicitors and experts, a circular letter, asking an expression of opinion as to the expediency of this rule, reading as follows :

“DEAR SIR:—At a meeting of the Patent Section of the American Bar Association in Buffalo, in the latter part of August, when the Honorable C. H. Duell, Commissioner of Patents, was present, the question of the propriety of the new rule established by the Commissioner, requiring separate applications for machines, processes and products, was brought under discussion—that rule being an addition to Rule 41 of the Rules of Practice, and being as follows :

‘A machine, a process and a product are separate and independent inventions, and claims for each must be presented in a separate application.’

You are probably aware that this rule has been considered objectionable as possibly affecting the validity of patent protection, on the ground that the entire right for any improve-

ment should be included in a single grant, and, further, as being burdensome, in adding to the cost of obtaining protection.

Mr. Duell at that time stated that he would be willing to hear the views of the Bar, speaking either through the Bar Association or individually, as to the advisability of such rule. It is believed to be important to have the views of leading practitioners in patent law as to whether this rule should be continued, and we would be glad to have an expression of opinion from you as to the same, with as full a statement of your views as you think well to send us. The intention is to present the matter to the Commissioner through the undersigned committee, and any letter which you will send us in connection with the matter will be submitted to the Commissioner when the whole matter is brought before him. We will be obliged for an early statement of your views on this subject.

Please address reply to Mr. Kay, P. O. Box 956, Pittsburgh, Pa.

Yours truly,

JAMES I. KAY,

MELVILLE CHURCH,

ALFRED WILKINSON,

Committee on Patent Office Practice."

In answer to this letter a large number of replies were received from the leading patent attorneys and others in the country, and the original letters were, in due course, delivered to the Commissioner of Patents.

In addition to the letters above referred to, your committee received, in answer to said circular letter, an admirable report adopted unanimously by the Patent Bar Association of Chicago, in which was considered the decisions bearing on the subject.

Your Committee also learned that the Patent Law Association of Washington, D. C., had the same matter under consideration, and about the same time that the report of this Committee was laid before the Commissioner, the Patent Law

Association furnished to the Commissioner its report, adopted unanimously by the Association, covering some sixty-five printed pages, and concluding with a recommendation that the addition to the rule made on July 18, 1899, should be cancelled.

As the letters received in answer to the said circular letter gave full expression of the opinions as to the rule in question, your Committee considered it wiser to prepare only a short report rather than attempt to collate the different opinions expressed therein. Believing that the report of your Committee should properly be transmitted to the Commissioner of Patents through the Chairman of the Patent Section of the American Bar Association rather than directly, your Committee made the following report to Mr. Fish, as Chairman :

“ WASHINGTON, D. C., January 3, 1900.

F. P. FISH, Esq.,

Chairman Patent Section,

American Bar Association,

80 Broadway, New York City.

DEAR SIR:—The undersigned Committee on Patent Office Practice appointed at a meeting of the American Bar Association in Buffalo, New York, in August, 1899, beg leave to report that, conceiving the effect of the addition to Rule 41 of the Rules of Practice of the United States Patent Office, promulgated July 18, 1899, to be of more than ordinary and of pressing importance, and therefore deserving of the fullest examination and discussion, your Committee, on or about the 4th day of November, 1899, prepared and sent to a number of the leading patent lawyers, patent solicitors and patent experts of this country a circular letter, of which the annexed is a copy, asking for expressions of opinion as to the expediency of the rule in question, and, in due course, received numerous replies, some approving and others disapproving the addition to the rule, which, together with a carefully prepared report of a very able committee of the Patent Bar Association of Chi-

cago—appointed specially to consider the matter—are submitted herewith, with the recommendation that they be laid before the Commissioner of Patents, in connection with this report.

As your Committee believe that the Commissioner will, through said report and letters, learn fully the opinions of those skilled in the patent law as to said rule, it is only considered necessary to submit, further, a brief statement of the practical effect of the change made in the rule as it appears to your Committee.

1. The rule in question reads as follows:—

‘41. Two or more independent inventions cannot be claimed in one application, but where several distinct inventions are dependent upon each other and mutually contribute to produce a single result, they may be claimed in one application.

A machine, a process and a product are separate and independent inventions, and claims for each must be presented in a separate application.’

It is the last paragraph of the rule that is the subject of most criticism. It announces as a rule of law that which has not yet been established by any authoritative decision to be such—no court, so far as your Committee are advised and believe, having yet held that a machine, a process and a product are, necessarily, separate and independent inventions.

2. Whether or not a machine, a process and a product are separate and independent inventions, claims for machine and process, in a single patent, have been declared valid by the Supreme Court in several cases, notably *Merrill vs. Yeomans*, 94 U. S. 568, and the *Telephone Cases*, 126 U. S. 1; and in the first-named case the court intimated that the inclusion in one patent of claims for machine, process and product was permissible. In *Miller vs. Eagle Mfg. Co.*, 151 U. S. 186, the court states that a single invention may include both the machine and the manufacture it creates.

3. The difficulty of determining whether a given invention resides in a new process or a new product is universally recog-

nized, it being utterly impossible in many cases, in the claim made, to state the process without describing the product resulting therefrom, or to describe the product without setting forth the process by which it is produced. In such cases the applicant should be allowed to include both process and product in a single application. He should have the same right of restatement of claim that is accorded inventors of machines.

4. The present rule tends to lead an inventor, under the best of legal advice, into one or the other of two possibly fatal mistakes.

(a) If he decides that his invention is a process, and patents it as such, the invention may be determined by the courts to be a product, and the patent held unavailing against a defendant who sells the product made by that or by a different process.

(b) If undecided whether his invention is a process or a product, or conceiving it to comprehend both a process and a product, he takes two separate patents, one for the process and the other for the product, he runs the risk, in suing upon either, under the best available advice, of having the courts hold that he had made but one invention, and that it is covered by the patent not in suit.

If the two patents get into different hands, the difficulties manifestly increase.

The right to include claims for both process and product in a single patent would tend to better protect the rights of the inventor and of those who invest in patent property.

5. The present rule, in its arbitrariness respecting division, does not give an applicant the benefit of a discussion with the Patent Office officials as to whether he has really invented a machine, a process and a product, or any one or more of these, in view of the state of the art.

It is, at least, doubtful whether a mistake in applying for a process where the invention is decided to be a product, or vice versa, can lawfully be corrected without the filing of a new application.

A better practice would permit an application covering the several subjects matter, with a requirement of division when found necessary.

Without going into the matter of other suggested hardships imposed by the recent addition to the rule—such as increase of expense to applicants and decrease of revenue to the Government (both of which are regarded as too trivial for serious consideration)—your Committee are of opinion that the rule, in its present form, is arbitrary and oppressive, and that the rule as it existed before such addition was sufficient for all purposes. If the matter of division of machine, process and product is to be regulated by rule at all, it should be by a rule more elastic and flexible in its nature than the present rule.

Adopting substantially the suggestion of the committee of the Chicago Patent Bar Association as perhaps a satisfactory remedy for the difficulty, your Committee would recommend the retention of the first paragraph of the present rule and the substitution of the following for the second paragraph thereof, viz. :

‘ When a machine, a process and a product are separate and independent inventions, claims for each must be presented in a separate application ; but when two or more of them are not separate and independent inventions, they may be claimed in one application.’

Respectfully submitted,

JAMES I. KAY,
MELVILLE CHURCH,
ALFRED WILKINSON,
Committee.”

Shortly after receiving the above report, Mr. Fish, as Chairman of the Committee, transmitted the same to the Commissioner of Patents, with the following letter :

“NEW YORK, January 10, 1900.

HON. COMMISSIONER OF PATENTS,
Washington, D. C.

DEAR SIR:—At the last meeting of the Patent Section of the American Bar Association, a Committee was appointed to consider Rule 41 of the Rules of Practice of the United States Patent Office as promulgated July 18, 1899, with particular reference to the advisability of the last paragraph of that rule, which is as follows:

‘A machine, a process and a product are separate and independent inventions, and claims for each must be presented in a separate application.’

There will be no meeting of the American Bar Association or of the Patent Section of that Association until next summer, but as the matter in question is important, the committee has concluded that the result of its investigations and its views ought to be submitted to you immediately—of course, with the understanding that the same have not been presented to or acted upon by the Patent Section of the American Bar Association.

For the purpose of bringing its conclusions to your attention immediately, the committee has incorporated its views in a letter to me, as Chairman of the Patent Section of the American Bar Association, which letter is dated January 3, 1900, and is enclosed herewith.

Accompanying the letter are a large number of communications from members of the Bar practicing in patent causes, each expressing the individual views of the writer on the subject in question.

Among them is a report to the Patent Bar Association of the City of Chicago by a committee of that Association, of which Mr. L. L. Bond is Chairman.

On behalf of the committee of the American Bar Association, I respectfully submit the enclosed papers to you, hoping that they will be of service in enabling you to determine exactly what should be done with the amendment to Rule 41.

With your permission, I will briefly state my own views on the subject.

It seems to me very clear—and in this I am in agreement with the large majority of the other members of the Bar who have expressed an opinion upon the subject—that the last paragraph of Rule 41 might be changed to advantage.

While it is true that a machine, a process and a product are sometimes and perhaps generally independent inventions, this is certainly not always the case. A product sometimes inheres in the process and the process in the product, as was stated by the Supreme Court in the Goodyear case, so that the two things, process and product, are rather two different aspects of the same subject matter than separate and distinct entities.

The same is true in many cases of an apparatus and the process practiced by that apparatus. For example, there are many electrical patents in which what might be fairly called a single inventive thought may be expressed either as a process or in terms of mechanism.

In all such cases it seems entirely unnecessary to treat the invention as if it were two inventions instead of one, but such is the result necessarily involved in the requirements of the last clause of Rule 41.

I need do no more than remind your Honor of the very great hardship to inventors involved in having what the courts may decide to be two patents for the same invention, particularly as the patents may possibly issue on different dates by reason of accidents not altogether within the control of the inventor.

If in these cases the inventor or his attorneys could be perfectly sure that either patent properly covered the invention, the hardship would be less serious; but they cannot be sure that a court will not take the view that the subject matter is properly one thing or the other, wherefore there is danger that the first patent will be declared void because it does not have the claims of the second patent, and the second patent invalid because of the first.

It may be that this consideration will not seem to your Honor one of controlling importance. It seems to me, however, entitled to real weight, and that in any event the office should not be subject to a rule which will in any case lead to the granting of two patents for the same invention.

I will only call attention to the consideration that it is not fair to inventors that they should be called upon to pay for two patents for the same invention.

I assume that fiscal considerations have not influenced the office in enacting the rule, but in any event the gain to the office from fees, which I do not think it ought to have, would be very small as compared with the expense to which applicants would be, improperly I think, subjected.

I cannot believe that the class of inventions to which I have so far called attention, viz: Those in which the machine and the process or the process and the product are in substance only different modes of expressing the same inventive idea, was in the minds of the office when the last paragraph of Rule 41 was adopted, for it seems to me that the first portion of the paragraph is untrue as a mere matter of statement, and that therefore the concluding portion of the paragraph is unwise.

In many instances it is perfectly clear that the machine, the process and the product, although all of them may have been developed from a single primary conception and by one line of experiment, are separate in fact and separable in thought. It was, undoubtedly, such cases that were prominently before the mind when Rule 41, as it now stands, was formulated. In connection with such cases the provision of the last paragraph of the rule might well be applied.

There is undoubtedly, also, a class of machine, product and process inventions, intermediate in character, with reference to which one might doubt whether the machine and process or the process and product were different forms of expressing the same idea or really separate.

Such doubtful cases are always arising wherever any attempt is made at accuracy of thought or classification, and are no

more difficult to deal with than are cases of laches, abandonment, reduction to practice, or of prior or public use, when on the border line.

I am prepared to give cordial assent to the suggestion of the committee of the Patent Section of the American Bar Association, that the last paragraph of Rule 41 be amended so as to read :

‘ When a machine, a process and a product are separate and independent inventions, claims for each must be prepared in a separate application ; but when two or more of them are not separate and independent inventions, they may be claimed in one application.’

This seems to me exactly to fit the situation, and all that would be required for an entirely satisfactory result would be that intelligent and painstaking application of the principle of the rule which is to be expected of the officials of the Patent Office.

Personally, I am strongly of the opinion that the entire influence of the Office should be exercised in favor of reducing rather than increasing the number of patents issued for cognate inventive ideas. Courts have rarely, if ever, criticised a patent because it covered ground that might have been broken up into a number of patches, each the subject of a separate patent. On the contrary, they have in many cases deplored the practice of taking an unnecessary number of patents for allied inventions, recognizing clearly that, by so doing, not only have patentees in many cases suffered serious injustice, but that the public have been positively harmed by the confusion of the situation resulting from a number of patents where one would have been sufficient.

The judicial opinions recognizing this evil, and in some cases specifically commenting upon it, are well known to your Honor.

I believe that, instead of requiring divisions, it should be the policy of the Patent Office, in the interest both of patentees and of the public, to require consolidations, that the patentee

may have a single document containing all, if possible, of a single general subject matter as to which he is to have exclusive rights, and that the public may be in a position to read in a single document the full limits of the cognate inventions from which they are excluded.

This statement of my individual views amounts to nothing more than an expression of belief that if I had the responsibility of determining a policy, I should exercise it in the direction of construing the amendment to Rule 41 as suggested by the committee of the Patent Section in favor of consolidation rather than of division, but my views on this point are entitled to but little weight.

I have, however, no doubt that the adoption by the Patent Office of the suggestion of the committee, would be very satisfactory to the large majority of those who believe in the patent system of the United States, and whose work is connected with the practical application of that system, and further, that the result of the adoption of the committee's suggestion would be greatly to the benefit, not only of patentees, but of the public in whose special interest the patent system was adopted and should be applied.

Very respectfully yours,

FREDERICK P. FISH."

Shortly after this communication from Mr. Fish, forwarding your Committee's report, the Commissioner amended the rules of practice and sent the following letter to Mr. Fish, and to the several associations and committees who had submitted their views:

"DEPARTMENT OF THE INTERIOR, UNITED STATES
PATENT OFFICE.

WASHINGTON, D. C., February 3, 1900.

MR. F. P. FISH,

Chairman the Patent Section
of the American Bar Association,
80 Broadway, New York City.

DEAR SIR:—Under date of January 10, 1900, I received your letter, enclosing a communication relating to Patent Office

Rule 41, addressed to you by the Committee on Patent Office Practice appointed at a meeting of the American Bar Association, at Buffalo, last August. Accompanying that communication was a report made to the Patent Bar Association, of Chicago, by a committee to whom had been referred the letter sent out by the Committee on Patent Office Practice of the American Bar Association. In addition thereto were letters from various patent lawyers and solicitors. The Patent Law Association of Washington, D. C., has also submitted a printed opinion bearing upon the same subject.

I have most carefully considered these various communications and opinions without being convinced that the statement contained in the last paragraph of the Rule—that ‘A machine, a process and a product are separate and independent inventions’—is, in view of the decisions of the Court, an incorrect statement of law. The United States Supreme Court, in *Rubber Company vs. Goodyear*, 9 Wall. 788, 796, said :

‘A machine may be new, and the product or manufacture proceeding from it may be old. In that case the former would be patentable and the latter not. The machine may be substantially old and the product new. In that event the latter, and not the former, would be patentable. Both may be new, or both may be old. In the former case, both would be patentable; in the latter neither. The same remarks apply to processes and their results. Patentability may exist as to either, neither, or both, according to the fact of novelty, or the opposite. The patentability, or the issuing of a patent as to one, in no wise affects the rights of the inventor or discoverer in respect to the other. They are wholly disconnected and independent facts.’

The Circuit Court of Appeals for the Second Circuit, in *Thomson-Houston Electric Co. vs. Elmira & H. Ry. Co.*, 71 F. R. 396, 405, said :

‘The invention of a new art, machine, or manufacture, and the invention of an improvement upon either, are substantially distinct and separate; and because this is so the order of pri-

ority between patents to the same inventor for the different inventions, in the absence of abandonment or disclaimer, is immaterial.'

The quotation above given from *Rubber Company vs. Good-year*, has been quoted with approval at various times by the Judges of our Federal Courts—by Judge Coxe, within the past eight months, in *Badische Anilin, etc. vs. Kalle*, 94 F. R. 163, 171.

Recognizing, however, that a difference of opinion exists among the members of the patent bar upon the subject of 'statutory classification,' and wishing to avoid an objection raised by some attorneys (although I think it is groundless), that some court, at some time in the future, might be influenced by the statement contained in the Rule, to hold that a patent heretofore granted, with claims for a process and product, or with claims for a process and apparatus, was invalid, I have, in the amendment of the Rule, made February 1, 1900—hereinafter quoted—omitted that statement from the Rule.

The amendment of July 18, 1899, to Rule 41 was adopted largely for the purpose of securing uniformity of practice. With thirty-six divisions it is impossible, except by means of rules, to secure such a result. The rule has been found to work admirably in the office. The less that is left to discretion, the more uniform, and therefore the better, is the practice. Therefore, unless there exists a reasonable doubt that the courts may declare patents invalid when one patent is issued for a process and a second for a machine which carries out the process, or for the product of the process, the claims for each should be presented in different applications.

Separate patents for a process and apparatus, provided the applications for them are properly prepared and the issue properly made, will not, judging from the past, be held to be invalid for the reason that the claims are contained in separate patents. The courts have generally recognized that a large discretion in reference to the question of division is left to the Commissioner of Patents. That discretion I think is wisely

exercised in continuing the requirement that claims for a machine and its process be presented in separate applications. My reasons in so ruling will be more fully set forth in a decision which will be published in the Official Gazette within a very short time.

This leaves for consideration the question of permitting claims for a process and its product to be presented in the same application. Recognizing the great difficulty that often arises in determining whether an invention consists in the product produced by a process, or in a process by which the product is produced, I have deemed it wise to waive the requirement of division and to permit the presentation of claims for the process and product in the same application.

I deem it unnecessary to extend this letter for the purpose of giving various reasons that have led to this decision, because I recognize the fact that the conclusion is of more interest to the patent bar than are my reasons.

Permit me to add that in the consideration I have given to the subject it has been my endeavor to view it from the standpoint of the practitioner as well as from that of the office. From the ranks of the practitioners I came to the office of Commissioner, and I would be the last one to knowingly or willfully do aught to lessen the value of patented inventions.

Rule 41 of the Rules of Practice of the Patent Office, edition of July 18, 1899, has been amended by cancelling the second paragraph and substituting the following:

‘ Claims for a machine and its product must be presented in separate applications.

Claims for a machine and the process in the performance of which the machine is used must be presented in separate applications.

Claims for a process and its product may be presented in the same application.’

I have addressed this letter to you, but as it relates to a subject of general interest, I shall send copies to the various

associations and committees that have submitted their views on the subject.

Very respectfully yours,
C. H. DUELL,
Commissioner.

From the foregoing response of the Commissioner, it will be seen that the Commissioner has withdrawn the declaration found in the amendment to the rule adopted July 18, 1899, that "a machine, a process and a product are separate and independent inventions," and that, while he still requires division as between a machine and its product, and a machine and the process in the performance of which the machine is used, it is now possible to cover a process and its product in the same application.

Your Committee believes that the rule suggested by it would have been more elastic in permitting, in cases where they are not clearly separate and independent inventions, the joinder of machine, process and product, or any two of them, in a single application. If it is believed that a resolution of the American Bar Association or its Patent Section will have weight with future Commissioners in leading to a further change of the present rule as now amended, your Committee would recommend the passage of such a resolution. It is thought, however, that the present Commissioner has given full consideration to the report and the recommendation made by your Committee, and that he should not be expected to be further troubled in the matter.

Your Committee is impressed with the need of new legislation regulating the matter of appeals in both *ex parte* and contested cases arising in the Patent Office.

Under the present system an appeal is allowed, in both classes of cases, from *final* decisions of the Principal Examiners and of the Examiner of Interferences to the Board of Examiners-in-Chief, consisting of three members; from the Board to the Commissioner in person, and from the Commis-

sioner to the Court of Appeals of the District of Columbia, and, in contested cases, from *interlocutory* decisions of the Examiner of Interferences to the Commissioner, in person.

The necessity for so many appeals is not believed to exist, and the saving of much time and expense to parties might be effected by cutting off some of them.

Your Committee urges the appointment of a Special Committee by the Chairman of this Section to consider this matter, with instructions to report, at the next meeting, a form of bill that will give the necessary relief.

Respectfully submitted,

JAMES I. KAY,

MELVILLE CHURCH.

ASSOCIATION OF AMERICAN LAW SCHOOLS.

Pursuant to the invitation extended by a committee of the Section of Legal Education of the American Bar Association, representatives from American Law Schools met at Saratoga, on Tuesday, August 28, 1900, and held three sessions during that day.

Charles Noble Gregory, of the University of Wisconsin, was chosen Chairman, and Ernest W. Huffcut, of Cornell University, was chosen Secretary.

The following schools were represented at the meetings :

Albany Law School : J. Newton Fiero, James B. Eaton.

Baltimore Law School : George R. Gaither.

Baltimore University Law School : Thomas S. Clendinen.

Boston University Law School : Samuel C. Bennett.

Buffalo Law School : Charles P. Norton.

Cincinnati, University of : Gustavus H. Wald.

Columbia University : William A. Keener.

Columbian University : William Wirt Howe.

Chicago College of Law : Thomas A. Moran.

Cornell University : Ernest W. Huffcut.

Detroit College of Law : William H. Wetherbee, Malcolm McGregor, Clarence A. Lightner.

Harvard University : James B. Thayer, James Barr Ames.

Illinois, University of : Andrew S. Draper.

Indiana, University of : William P. Rogers, George L. Reinhard.

Iowa College of Law : C. C. Cole, L. G. Kinne.

Maine, University of : George R. Gardner.

Maryland, University of : Henry Stockbridge, Richard M. Venable.

Michigan, University of : H. B. Hutchins.

Minnesota, University of : W. S. Pattee, H. S. Abbott.

Missouri, University of: John D. Lawson.
New York Law School: Alfred E. Reeves.
New York University: Clarence D. Ashley, L. J. Tompkins.
North Carolina, University of: J. C. Biggs.
Northwestern University: John H. Wigmore.
Pennsylvania, University of: William Draper Lewis, O. J. Roberts.
Pittsburg Law School: J. D. Shafer, J. C. Gray.
Richmond College: Roger Gregory.
St. Louis Law School: Wm. S. Curtis.
Syracuse University: James B. Brooks, G. H. Stilwell.
Tennessee, University of: Henry H. Ingersoll.
Vanderbilt University: J. C. Bradford.
Washington and Lee University: Henry St. George Tucker.
Western Reserve University: E. H. Hopkins, H. H. Johnson, Alexander Haddon.
Wisconsin, University of: Charles Noble Gregory.
Yale University: George E. Beers, George D. Watrous, James H. Webb, George M. Sharp.

The following schools which had notified the committee of the appointment of delegates were not represented at the Conference:

Alabama, University of,
Chicago Law School,
Illinois College of Law,
Indianapolis College of Law,
Iowa, University of,
John Marshall Law School (Chicago),
Mercer University,
Mississippi, University of,
Northern Indiana Law School,
Ohio State University,
Virginia, University of.

George M. Sharp, for the Committee of the Section of Legal Education, stated the object of the Conference, and pre-

sented a draft of Articles of Association prepared by that committee.

On motion, the proposed Articles were taken up section by section. After a full discussion and various amendments, the Articles were adopted as amended and referred to a Committee on Style, consisting of George M. Sharp, William Wirt Howe and James Barr Ames. It was also voted that the same committee act as a Committee on Nominations. The committee reported back the Articles at the evening session with some verbal changes and they were adopted as read, and ordered printed and sent to all law schools.

The Articles as adopted are as follows :

ASSOCIATION OF AMERICAN LAW SCHOOLS.

ARTICLES OF ASSOCIATION.

Adopted at Saratoga, New York, August 28, 1900.

The undersigned Law Schools in the United States, represented by delegates duly appointed by their respective faculties, do hereby form an Association to be called the Association of American Law Schools, and establish the following as its Articles of Association :

First : The object of the Association is the improvement of legal education in America, especially in the Law Schools.

Second : The Association shall meet annually at the time and place at which the American Bar Association meets. The Executive Committee may call special meetings at such time and place as the committee may select ; thirty days notice of such meeting shall be given by the Secretary to all members of the Association, and the purpose of the meeting shall be stated in the notice.

Third : The Law Schools having delegates at this meeting and signing these Articles before July 1, 1901, shall be members of the Association, provided such Schools shall comply with Article Sixth.

Fourth : Each member of the Association may send to the meetings delegates not exceeding four from each Law School.

Fifth: At all meetings of the Association, the voting shall be by delegates, unless some delegate requests that any vote shall be taken by Schools, in which case it shall be taken by Schools, each School having one vote.

Sixth: Law Schools may be elected to membership at any meeting by vote of the Association, but no Law School shall be so elected unless it complies with the following requirements:

1. It shall require of candidates for its degree the completion of a high school course of study, or its equivalent. The equivalent may be determined by the Law School Faculty upon certificates issued under public authority, or by the authorities of an institution of advanced learning. In the absence of these the applicant shall be required to pass an examination in studies equivalent to those required of high school graduates; *provided*, that this requirement shall not take effect until September, 1901.

2. The course of study leading to its degree shall cover at least two years of thirty weeks per year, with an average of at least ten hours required class-room work each week for each student; *provided*, that after the year 1905, members of this Association shall require a three years' course.

3. The conferring of its degree shall be conditioned upon the attainment of a grade of scholarship ascertained by examination.

4. It shall own, or have convenient access to during all regular library hours, a library containing the reports of the state in which the School is located and of the United States Supreme Court.

Seventh: Any School which shall fail to maintain the requirements provided for in Article Sixth, or such standard as may hereafter be adopted by resolution of the Association, shall be excluded from the Association by a vote at the general meeting, but may be reinstated at a subsequent meeting on proof that it is then *bona fide* fulfilling such requirements.

Eighth: The officers of this Association shall be a President and a Secretary-Treasurer, who shall be chosen from among the

delegates at each annual meeting, and each of whom shall hold office until his successor is elected.

Ninth: At each annual meeting there shall be chosen from among the delegates three persons to be members of the Executive Committee, who with the President and Secretary shall form such committee. The Secretary of the Association shall be Secretary of the committee.

Tenth: The Executive Committee shall have charge of the affairs of the Association and is especially entrusted with seeing that the requirements of Articles Sixth and Seventh are complied with. All complaints shall be addressed to the Executive Committee, and shall be filed at least ninety days before the annual meeting of the Association. The committee shall investigate all complaints and report its findings, with such recommendations as it shall think proper, to the Association for its action, and shall make a report at the annual meeting. This provision shall not, however, prevent any matter being taken up and passed upon by the Association, except that no Law School shall be excluded from the Association under the Seventh Article unless the Executive Committee has given it thirty days notice that it has in the opinion of that committee failed to comply with the provisions of the Sixth or Seventh Article.

Eleventh: Applications for membership shall be addressed to the Secretary, accompanied by evidence that the School applying fulfills the requirements of Articles Sixth and Seventh. The Executive Committee shall examine the application, and report to the Association whether the applicant has fulfilled the requirements. Applications for membership shall be made at least ninety days before the meeting of the Association.

Twelfth: The Executive Committee may conduct its business by correspondence.

Thirteenth: The officers and other members of the Executive Committee may be re-elected, but no School shall be represented on the Executive Committee for more than three years

in succession, except that the Secretary-Treasurer may be re-elected indefinitely.

Fourteenth: The annual assessment on each School shall be ten dollars, payable in advance, and any School which shall have failed to pay its assessment during the year shall be dropped from the Association, but may be re-instated by vote of the Association, upon payment of arrears.

Fifteenth: These articles may be changed at any annual meeting; the vote on such change shall be by Schools, and no change shall be adopted unless it is voted for by two-thirds of the Schools represented nor unless it is voted for by at least one-third of all the members of the Association, *provided*, that no motion for an amendment shall be considered unless a copy of such proposed amendment be filed with the Secretary at least ninety days before the meeting and a copy thereof sent forthwith by the Secretary to each member.

On motion a Committee on Nominations was authorized. The Chairman appointed as such committee, George M. Sharp, William Wirt Howe and James B. Ames.

H. H. Ingersoll introduced the following resolution, which, on motion, was referred to the Executive Committee.

Resolved, That after examination by the Faculty a candidate who has given one year or more to private study of the law, may be granted an advanced standing of one year.

George M. Sharp offered the following resolutions, which were referred to the Executive Committee.

Resolved, That it is the opinion of this organization that the degree of a law school ought not to admit to the bar, but that admission to the bar should be only after examination by a State Board of Law Examiners, which board should be appointed by the highest appellate court of the state.

Resolved, That the Executive Committee be requested to consider and report to the Association what degrees should be conferred by law schools and the conditions upon which such degrees should be granted.

Resolved, That the Executive Committee be requested to consider and report to the Association what credit, if any, on account of law courses, should be given students holding degrees in letters or science.

The Committee on Nominations reported as follows :

For President: James B. Thayer, of Harvard University.

For Secretary-Treasurer: Ernest W. Huffcut, of Cornell University.

For members of the Executive Committee :

J. C. Biggs, of the University of North Carolina.

W. P. Rogers, of the Indiana State University.

George M. Sharp, of Maryland.

On motion it was ordered that the Chairman cast the ballot of the Association for the candidates named, and they were declared duly elected.

On motion a vote of thanks was extended to the Chairman, Charles Noble Gregory, for his uniform courtesy and patience in presiding over the deliberations of the Association.

On motion a vote of thanks was extended to the Secretary.

On motion the Association adjourned *sine die*.

E. W. HUFFCUT,
Secretary.

A CONFERENCE OF STATE BOARDS OF BAR EXAMINERS.

A meeting of State Boards of Bar Examiners was held in connection with the annual meeting of the American Bar Association at Saratoga Springs, New York, on Thursday, August 30, 1900, and was called to order by William P. Goodelle, President of the New York State Board of Law Examiners. There were present: Henry S. Dewey, of Massachusetts; William P. Goodelle and Franklin M. Danaher, of New York; Bartlett Tripp and C. I. Crawford, of South Dakota; Edwin B. Gager and George B. Watrous, of Connecticut; John B. Madigan, of Maine; John S. Wirt, of Maryland; and Russell C. Ostrander, of Michigan.

William P. Goodelle:

Gentlemen: This is a meeting or conference of State Boards of Bar Examiners from such states as have appointed such boards. I nominate as Chairman of this meeting Judge Dewey, of Boston.

Henry S. Dewey, of Massachusetts, was then elected Chairman.

Franklin M. Danaher was elected secretary of the meeting.

The Chairman:

The first business in order will be the report of the committee which was appointed one year ago.

The Secretary read the report of the committee as follows:

“To the Conference of State Boards of Bar Examiners:

“The committee appointed at a conference of members of State Boards of Bar Examiners held in connection with the Section of Legal Education of the American Bar Association, at the annual meeting of the Association in the City of Buffalo, New York, on August 19, 1899, under and pursuant to a resolution in the words following, offered by Hon. W. P. Goodelle, of New York:

“Resolved, That there be a committee of three appointed by the chair to take into consideration and report at the next meeting of this Section the advisability of the State Boards of Law Examiners forming themselves into an organization, and making such suggestions as they think fit.”

submit this report.

Under the authority thereby invested your committee caused invitations to attend a Conference to be held in Saratoga Springs during the meeting of the American Bar Association on Thursday, August 30, 1900, at 3 P. M., to be prepared and mailed to the members of the State Boards of Bar Examiners as far as known, and to the chief justices of all the states, with a request that the same be handed to those in the state interested in the subject of raising the standard of admission to the bar in their respective jurisdictions, and the consequent improvement of the profession, and in order that the Conference might be representative and in position to carry out properly the purposes for which it was called.

The following states have, as far as ascertained, State Boards of Bar Examiners :

Colorado, Connecticut, Florida, Georgia, Illinois, Maine, Maryland, Massachusetts, Michigan, Louisiana, Minnesota, New Hampshire, New York, Ohio, Rhode Island, Vermont, West Virginia, Wisconsin and Wyoming.

An exhaustive resumé of the statutes and rules of court regulating admission to the bar in all the states of the Union was compiled and published by the University of the State of New York in 1899, copies of which can be had from the secretary of that board on application. Interesting and valuable discussions covering the subject of the good work accomplished by state boards having in exclusive charge admission to the bar, had at our former conferences, can be found in the reports of the American Bar Association for 1898 and 1899, to which all interested are referred for information as to what each state has done, and by comparison to

assist in determining the system best adapted, by reason of local conditions, for adoption in those states having no state boards.

Your committee advise the holding of an annual Conference of the members of State Boards of Bar Examiners in connection with the sessions of the Section of Legal Education of the American Bar Association and at the time and place of the annual meeting of the Association.

An elaborate system of organization is deemed not to be necessary, say, a chairman and a secretary to be elected annually, and an executive committee of five, three to be appointed by the chair, the chairman and secretary of the Conference to be members *ex officio*. This committee to be charged with the duty of sending to all interested and to jurisdictions having no state boards, the minutes of our Conferences and information concerning the good being accomplished by State Boards of Bar Examiners, and in that way aid and encourage in the extension of the system. It is believed that we can accomplish this through the bar associations of the various states.

Your committee believe that these Conferences will be productive of much good; that an exchange of views and official experiences will be valuable, and the encouragement that can be thus given to those members of our profession who are struggling to change existing lax and unsatisfactory rules regulating admission to the bar in their states, will be effective and most highly appreciated.

The subject is one of recognized importance both to the profession and to the people; its general discussion is not, however, within the limits of our necessarily brief report which is submitted, with the objects of the Conference, to your consideration.

Respectfully submitted,

F. M. DANAHER, New York.

HENRY S. DEWEY, Massachusetts.

Saratoga Springs, N. Y., August 30, 1900.

Pursuant to the requirements of the above resolution, the Chair appoints the following committee to act in conjunction with the chairman and secretary, *ex officio* :

George D. Watrous, Connecticut; John S. Wirt, Maryland; Russell C. Ostrander, Michigan.

William P. Goodelle :

I move that the report be received and adopted, and in making this motion I desire to say a single word :

I regret that we have not a larger attendance here. Two years ago at this place was held the first meeting of the State Boards of Law Examiners, and that was very interesting. A year ago when the association met at Buffalo, we also held an interesting and profitable meeting. The proceedings of both are spread out quite fully in the printed transactions of the American Bar Association. One year ago we had the honor of offering a resolution in Buffalo which has led to this endeavor to have an organization formed by the State Boards of Law Examiners, and in moving the adoption of this report proposed, perhaps it would be advisable for me to make a suggestion or two in reference thereto. It has been established from experience in those states where such boards exist, that the system of examination has not only worked well and satisfactorily, but that the standard of admission to the bar has been gradually raised thereby. It seems therefore that state boards, to commence with, have been made (if not a necessity and convenience) certainly desirable by benefitting the profession in the states where state boards have been organized; and from the correspondence that we have had and interviews with gentlemen from other states where they have no state boards of law examiners, I think we discover a strong desire that something should be done by which their states might be persuaded to adopt the system. I think it might be regarded as an established fact that the profession is desirous of organizing state boards of law examiners and taking such other steps as are necessary to raise the standard of the profession. The third fact which appears, it seems to me, is that the state boards of

law examiners already established are not only willing but desirous of extending all their efforts to other states that may help them in establishing such boards.

Now that is what led to this movement and to the resolution that was offered, and I may say here, without derogating anything from the other branches of the American Bar Association, that I do not believe there is a field of labor so prolific of success and which will bring such practical results, as the establishment of State Boards of Law Examiners in all the states. I think further, that, if the profession of the law intends to hold its deserved place in the front rank of the learned professions, there is no time to be lost in doing work of this kind toward bringing the profession up and then maintaining its standard. We are, in my judgment, lax and deficient in our interest and efforts as compared with the medical profession, and the energies that they are putting forth and the interest they are taking to reform and elevate the standard of their profession and the results of their work is seen on all sides. I think therefore, not only for the good of the states generally, but for the good of the profession throughout the country, a movement of this kind ought to be promoted and efforts put forth to elevate the profession and the standard in other states by persuading them, if possible, to establish state boards of law examiners.

Bartlett Tripp, of South Dakota :

Have many of the states established such boards ?

William P. Goodelle :

Yes. The secretary has a list of those. Now, with these remarks I take great pleasure in making the motion that this report be not only received, but that it be adopted.

The report was adopted.

The Secretary :

I would suggest that Mr. Madigan be requested to tell us something about what has been done in his state during the last year in the line of this work.

John B. Madigan, of Maine:

I will say that our state calls for the appointment by the Chief Justice of five bar examiners, who shall be nominated by the governor, and who shall hold office for one, two, three, four and five years respectively, the one whose term expires soonest to be chairman, the secretary and treasurer to be elected. These gentlemen have organized and held a meeting. The old state law under which we are operating at present (because this law that I speak of goes into effect on the 1st of September) provides for two years' study, and the new law provides for three years' study. The law also provides that the State board shall have no jurisdiction over cases which are pending the 1st day of September, 1900. Consequently, it will probably be about a year before we have an examination, because the two-year students will all finish under the old county examination system, and the three-year men will not be ready. The law provides for three examinations—one in Bangor, one in Augusta and one in Portland—and as many more as the supreme court may order.

F. M. Danaher, of New York:

Is there an examination fee?

John B. Madigan:

Yes, sir. It may be such as the board shall fix, but it shall not exceed \$20 for a student.

W. P. Goodelle:

Are the examinations to be oral or written, or is that left to the discretion of the Board?

John B. Madigan:

The applicant is required to submit to a written examination and also to an oral examination. Seventy per cent. is the minimum required. The board has the power to prescribe such higher grades of standing as may seem to them proper.

W. P. Goodelle:

It is discretionary with the board, then, to have an oral examination or not, but they must have a written examination.

John B. Madigan :

It is required that there shall be both written and oral examinations.

Edwin B. Gager, of Connecticut :

I move that the chairman and secretary of this meeting be appointed as the chairman and secretary of the organization, as provided for in the resolution that we have adopted.

This motion was adopted.

W. P. Goodelle :

I move that the chairman appoint a committee of three who shall act in conjunction with the chairman and secretary, in accordance with the resolution that has been adopted to-day.

This motion was adopted.

The Chairman :

Will one of the gentlemen from South Dakota tell us what their system is out there ?

C. I. Crawford, of South Dakota :

In South Dakota examinations are conducted by the Supreme Court. The justices conduct them. They set apart the first day of each term of court, when all students are expected to appear before them personally. Until quite recently the examinations were oral entirely, but I think now the practice is to submit written questions and to require the examination to be in writing, and then enlarge upon it somewhat by oral interrogatories. It is all done under the action of the legislature, so that it would be necessary to change our organic law in order to confer any particular power or authority upon a special board of examiners.

Edwin B. Gager, of Connecticut :

Your supreme court is really a board of examiners.

C. I. Crawford :

Yes. They are not so called, but they perform those duties, and no county examinations or examinations in *nisi prius* courts are held; no admission to those courts is permitted except as made through the supreme court of the state.

The purposes and procedure of the Conference were then discussed informally. Plans were offered and considered for the extension of the system of admission to the bar by means of State Boards of Bar Examiners; and the committee appointed was instructed to carry out, during the coming year, the requirements of the report heretofore made, and to report what it had done at the next conference to be held in 1901, at the time and place of the annual meeting of the American Bar Association.

The meeting then adjourned.

F. M. DANAHER,
Secretary.

OBITUARIES.

INDIANA.

JOHN H. BRADLEY.

John H. Bradley was born at LaPorte, Indiana, December 24, 1851, and died at LaPorte, February 16, 1900, of typhoid pneumonia, after a brief illness of four days. He was stricken with the disease of which he died while in the discharge of his professional duties in the LaPorte Superior Court, and thus fulfilled one of his dearest wishes—that he might be active to the end of his life.

He was the son of Judge James Bradley, who was one of the pioneer lawyers of Indiana, and whose memory is cherished and honored by all who knew him.

John H. Bradley was born in LaPorte. He lived his whole life in that city, and died at his residence on the same plot of ground upon which he was born. He was educated in the LaPorte public schools and at Earlham College, Richmond, Indiana, and afterwards attended a law school at Bloomington, Indiana, and was a law student in his father's office up to the time of his admission to the bar. He then formed a partnership with his father, and for years, and until the death of his father, they conducted a large and lucrative law business.

From the date of his father's death, John H. Bradley continued to practice law without forming any copartnership. In his early practice he held some minor offices—city clerk, deputy prosecuting attorney, and was both city and county attorney—all of which positions he filled with credit and distinction to himself and to the entire satisfaction of the public. He was never an office seeker. His sole aim in life was to become a respected lawyer and a good citizen.

In October, 1878, he married Myra B. Teegarden, who was a daughter of Dr. A. Teegarden, also one of our most honored and worthy pioneer citizens. He leaves surviving him his widow and two children, a son and a daughter, to whom he has left the most precious of all legacies—the remembrance of a well-spent life and an honored name.

John H. Bradley has built his own monument, and has builded well. His position was conspicuously prominent at that place where Webster once said, “there was plenty of room.” He had the highest regard for the ethics of the profession, and never on any account departed the least therefrom. By his quick perception and studious life he was always able to come into a case well equipped for any emergency, and by his clear and wise expressions he was always able to be understood, and in practice met with such success as always attaches to an honest and earnest advocate. In the trial of a case he was always fair and honorable, and never resorted to any low cunning or trickery to gain undue advantage over his adversary. He always sought to present the law and the facts in such a manner as his judgment told him was right, and would abandon a case in which he had been employed rather than consent to fraud or trickery by others on his side of the case.

He was never elected judge, and yet for years he served in that capacity in special cases, and that service was so pure and so eminent that he was uniformly thought of and spoken of as judge. His mind was judicial. His bearing commanded admiration and respect; his rulings were clear and impartial, and, best of all inspirations for a judge, he inspired the lawyers who practiced before him with the firm belief that his every ruling was honest and made with the sole purpose of arriving at the truth within the limits of the law as he understood it to exist.

His life was pure and genial; always dignified and courteous, honest, truthful and intelligent, a faithful and constant friend, a high-minded and dignified citizen.

CHARLES A. KORBLY.

Charles A. Korbly was born at Louisville, Kentucky, January 16, 1842, and died at Indianapolis, Indiana, June 13, 1900. His parents were from Alsace. When he was about four years old they removed to Ripley County, Indiana, where he was brought up, and obtained his primary education in the country school, in which he afterwards taught.

Early in life he was attracted to the study of medicine, and served three years as assistant surgeon in the army during the Civil War. After retiring from the army he lived first at Michigan City, Indiana, where he began to read law, and soon afterwards moved to Madison, where he continued the study of law and afterwards became a partner in practice with Hon. Henry W. Harrington.

He soon took a high place at the bar of Southern Indiana. He married, at Madison, Mary Bright, daughter of the late Michael G. Bright, who, with two sons and a daughter survives him.

In 1895 Mr. Korbly removed to Indianapolis and associated himself with Hon. A. G. Smith in a partnership which lasted until his death. Here his ability was quickly appreciated and he was accorded a rank among the leaders of the bar of the state. In politics Mr. Korbly was a Democrat, and adhered to the original principles and traditions of his party. In religion he was a Roman Catholic of the Ultra-montane party, but never controversial or intolerant. He was a man of the most liberal culture, of high and serious purpose, of strictest integrity, and of a sensitive moral nature.

Mr. Korbly was a scholar of attainments far beyond the ordinary. He possessed unusual power of mental effort and concentration. He was well read in both German and English literature and in the natural sciences. As an advocate he was never oratorical, but possessed a remarkable power of clear statement and convincing logic. As a counselor he was exact and careful, carrying his researches into the remotest sources

of the law and into every detail. As a lawyer he was not only learned; he was profound. Mr. Korbly was always a powerful ally and a courteous opponent. No one could associate with him without feeling an inspiration to earnest effort, to nobler aims.

What Whittier said of Pennsylvania's great thinker, Elisha Mulford, can be truly said of him:

"Unnoted as the setting of a star
He passed; and sect and party scarcely knew
When from their midst a sage and seer withdrew
To fitter audience, where the great dead are
In God's republic of the heart and mind,
Leaving no purer, nobler soul behind."

HENRY B. SAYLER.

Henry B. Sayler was born in Montgomery County, Ohio, on the 31st of March, 1836. His parents were Dr. Martin Z. Sayler and Barbara Sayler. The earliest progenitor in this country was Daniel Sayler, who was born in Switzerland, January 15, 1708, and emigrated to America, with his brother, Jacob Sayler, about 1725. These two brothers became the founders of the two branches of the Sayler family in this country; that founded by Jacob becoming eminently distinguished for their work in the German Baptist Church, and that founded by Daniel becoming equally distinguished in politics, law and medicine. The earliest known ancestor of Judge Sayler was Burckhardt Sailer, a wealthy citizen of Nuremberg, Bavaria, who died in 1390, and who lies buried in St. Siebald's Church, behind the choir. Judge Sayler was the oldest of five children. His grandfather moved from Virginia to Ohio in 1807, and was prominent in the early politics of Ohio. In 1836, soon after the birth of Judge Sayler, his father and mother moved to Clinton County, Indiana, and his early boyhood was spent in the then new land of the West. His education was almost entirely that of the common school, his collegiate course being limited to one year in the Illinois

Wesleyan University, at Bloomington, Illinois. In 1855 he went to Preble County, Ohio, and there taught school and studied law until February 24, 1859, when he was admitted to the bar of Ohio on an examination by the Supreme Court of Ohio. In March, 1859, he moved to Indiana, spending a few weeks at Delphi, and in May located at Huntington, where he continued to reside, except for a few months at Indianapolis and Connersville, until the time of his death, June 18, 1900. In 1872, Judge Sayler was elected a member of the House of Representatives in Congress, from the Eleventh Indiana District, as a Republican. He became distinguished in Congress in connection with the subject of patents. On the 31st day of March, 1874, on the motion of Hon. Luke P. Poland, of Vermont, he was admitted to the bar of the Supreme Court of the United States. He became a member of the American Bar Association in 1889 and for that year was the member from Indiana of the General Council.

On the 15th of July, 1863, he joined the Union Army and was mustered in as a first lieutenant. He was promoted through the several grades to and was appointed major of the 118th Indiana Volunteers on the 3d of September, 1863, and served in that grade until he was mustered out of the service March 3, 1864. He was engaged in the East Tennessee campaign of 1863-64, when the army endured hardships and privations scarcely equaled by those endured by Washington's army at Valley Forge. He was a member of the Grand Army of the Republic and of the Military Order of the Loyal Legion. August 15, 1881, he was appointed Judge of the 28th Judicial Circuit and in November, 1882, he was elected to succeed himself as Judge.

During his term of service on the bench he was noted for his uniform kindness and courtesy to young men, for his sterling integrity and for the justice of his decisions.

He was a member of the Presbyterian Church, and was always alive to its interests. He was a commissioner to the General Assembly of the Church on several occasions, and

was chosen a member of the General Assembly's Committee on the Revision of the Confession of Faith. This committee was composed of fifteen ministers and ten elders.

Wabash College conferred on Judge Sayler, in 1890, the honorary degree of LL. D. In 1892 he became a member of the Prohibition Party, with which he acted until his death. In 1856 he was married to Isabella Hart, of Preble County, Ohio. She was always zealously loyal to his interests and aspirations, and he always took special pleasure in crediting to her whatever added to his usefulness and distinction. She died on the 1st of June, 1897, and he never fully recovered from the shock. He left surviving him two sons, Samuel M. Sayler and John M. Sayler, both of whom are in the active practice of law at Huntington, Indiana. Judge Sayler was a lawyer of the old school, noted for his sterling worth and his keen appreciation of justice. He was thoroughly versed in the law, ranking easily with the very best lawyers of Indiana, and had an exquisite sense of the beauty, the wisdom and the justice of the law. His life was a busy, successful one, and he died deserving and receiving the universal commendation of all who knew him.

IOWA.

ORLANDO B. AYERS.

Orlando Buenos Ayers was born at Willoughby, Lake County, Ohio, July 26, 1836. His father, Buenos Ayers, was a native of Massachusetts, and his mother, Sarah Osborn, of Connecticut. He was, therefore, a New Englander by heredity.

During his infancy, his parents and family moved to Hicksville, Defiance County, Ohio, where they resided until 1850, and during their residence there, he had the benefit and advantage of the excellent common schools in that state. The family, in 1850, moved to Wisconsin, where they resided a

short time, and in 1851 moved to Henry County, Illinois, where their son received a further and superior common school education. After acquiring as thorough and extended an education as could be obtained in the common schools of Illinois, which had then just recognition as being among the best of any state, he commenced, in 1861, the study of the law.

He entered the law office of Howe & North, one of the leading firms of Kewanee, Illinois, where he pursued the study of the law with unremitting diligence for two years. He was admitted to the bar of the Supreme Court of Illinois in December, 1863, and began practice in Kewanee directly after his admission. He continued there for nearly a year, when he moved to Knoxville, Iowa. In 1864, he was married to Annie L. Stone, a sister of William M. Stone, then Governor of Iowa. Mr. Ayers was associated with Governor Stone for a number of years in the practice of law at Knoxville. During his residence there, he also had association in practice, with his brother, S. P. Ayers, and afterwards with Hon. James D. Gamble, now one of the Judges of the Fifth Judicial District of Iowa.

His practice became quite extended, not only in Marion County, but in the other counties of the Fifth Judicial District, and he attained the very front rank of his profession, coming to be recognized as one of the most able, careful and successful lawyers in the state. His success at the bar, as well as his character for honesty, industry and fidelity in his profession, together with his recognition as one of the foremost Christian citizens and public men in his county and district, caused the people to demand that he should accept promotion to the district bench; and he was, in 1886, elected one of the judges for the Fifth Judicial District. His service as judge was eminently acceptable. On the bench, he manifested the same characteristics which had marked his career as a lawyer. He was able, and always considerate, and commanded not only the love and respect of the members of the bar, but the undivided confidence of the people. At

the close of his term of four years, he was urged to accept a re-nomination, but he declined, and after the close of his term, moved to Des Moines and accepted the presidency of the State Insurance Company, which had its principal office and place of business in that city.

In the management of the affairs of the State Insurance Company, he exhibited the same sagacious, intelligent and comprehensive judgment which had characterized his professional and judicial career.

While engaged in the management of the affairs of this company, he was elected a Director and Vice-president of the Bankers Life Association. His services and labors in the interest of that Association were very beneficial and greatly appreciated. He was also at one time President of the National Masonic Accident Association. He was a Knight Templar and an Odd Fellow.

In 1895, Judge Ayers resigned his position as President of the State Insurance Company, and returned to the practice of the law—the profession of his early choice, in which he had attained eminence, and from which he found it quite impossible to separate himself. He then organized the firm of Ayers, Woodin & Ayers, of which he was the senior member; the other members were D. W. Woodin, and his son, W. S. Ayers. Judge Ayers continued in practice with this firm until his death, which occurred March 27, 1900, at San Diego, California. For some time before he had found his physical energies more or less impaired, because of something approximating paralysis. He went to San Diego a few months before his death, in the hope of restoring his impaired physical powers and recovering his wonted vigor and activity, but in this hope he and his family were alike disappointed.

Judge Ayers died as he had lived, an exemplary, Christian man. He was blessed with ten children, eight sons and two daughters, all of whom, together with his wife, survive him.

KENTUCKY.

GEORGE MONTGOMERY DAVIE.

George Montgomery Davie was born in Christian County, Kentucky, March 16, 1848. His father, Winston J. Davie, was of English origin and of a North Carolina family, several of whose members were distinguished in the Colonial and in the judicial history of the state, and was a graduate of Yale. His mother, Sarah Phillips Davie, was of a Georgia family. Both parents belonged to families prominent socially and devoted to liberal education and culture.

The war destroyed the fortune of the family. His father wisely expended upon his son's education the money he had to give him. After passing through the schools of his home he became a student at Centre College and then at Princeton, where he was graduated in 1868. After being a student at the Louisville Law School and in the office of Col. R. W. Wolley he was admitted to the bar in 1870, and entered upon the trying ordeal which awaits the young lawyer without fortune and without the helping hand of acquaintances and friends.

His success at the bar was not immediate or sudden. He was without the showy forensic gifts which command a quick but dangerous success, and he underwent the toilsome but wholesome apprenticeship which falls to the lot of most lawyers. His mind was not one of those exclusively or perhaps even peculiarly adapted to the law. He had very unusual literary gifts, and during his last illness, selected, for private publication, a number of poems with which he had amused his leisure hours—some of which were original and others translations from Horace. He had a marked predilection for literature, and a wide range of intellectual interests and activities. These qualities, backed by a good memory, unflagging industry, courage and self-reliance, would have commanded success in almost any pursuit. He lacked the graces and skill of an

orator. His great stock of knowledge, his fertility of ideas and suggestions, the rapidity of his mental operations, overcrowded him at the moment of utterance, and made him the despair of stenographic reporters. As a speaker, his ideas crowded each other, and sentence trod on the heels of sentence, and yet as an advocate before juries as well as courts, he had few equals. His ideas when presented, lacked in form and arrangement, but he had ideas and expressed them, and the combined effect was what he intended it to be. His success was great and constantly growing, up to the time when he was suddenly taken away.

After leaving Col. Wolley's office, he was with Muir and Bijur, and became their partner. The firm of Bijur and Davie was dissolved by the early death of Mr. Bijur, and not long after the firm of Brown and Davie was formed. Into this firm Judge Humphrey entered. Ten years ago, the lamented death of Col. Brown occurred. The survivors remained together until Mr. Davie's death.

On December 5, 1878, Mr. Davie was married to Miss Margaret Howard Preston, the daughter of Gen. William Preston. He left one child to survive him, Preston Davie.

After the close of the Civil War, with the return of peace, our country entered upon a new era, which brought new activities, new duties, new questions, and with them, the necessity of adapting our laws to all the new conditions. And this great change demanded new men, free from the old habits, ways and prejudices, and willing and able to help guide the growth of the new laws and the new life of the nation. George M. Davie, rich in his natural gifts, honest, earnest and fearless in his moral gifts, brilliant, acute and powerful in his mental gifts, and learned and wise in his profession, was one of the greatest, most useful and successful among all the new men of the new era. He was a Gold Democrat, and in 1896 attended the Indianapolis Convention and became the Chairman of the Palmer and Buckner National Democratic Committee in Kentucky. He was a most untiring worker and did more for that

movement in the campaign of 1896 than any other single man. He was the life and spirit of the movement through the whole Southwest. He never held any political office of any kind and never aspired to one.

His noble ideals, his common sense, his knowledge of public and private business, his insight into human nature, his power to grasp and work out the hardest problems, his reading not only in the law, but in many fields of human thought, his unusual memory, and his striking and attractive presence and manner quickly won for him, and to the end held fast, the faith and trust of all who knew him. To his seniors his bearing was ever of earnest and fitting respect and deference; to those of his own day, he was the best loved, most delightful and interesting; to his younger brothers of the bar, of his rich store of learning and experience he gave freely with untiring kindness. His most impressive trait was his extraordinary gentleness, with all of his earnestness, power and vigor. His ready wit, so amusing and pointed, was always devoid of sting. He had no pleasure in another's pain; he rather sought to make the victim of his wit join in the laugh. This power and a delicate sense of humor he used with success in his arguments to courts and juries, and often made a point clear and strong by an odd and humorous way of putting the facts of the case. Every speech he made was marked by his individuality, and everything he wrote was so filled with it that one familiar with him could tell his work without fail. There was no labor too severe for him in the preparation of his cases and the discharge of his duty to his clients. His research left no authority unexamined. His fertility of resources omitted no argument, no suggestion, no question that might serve to sustain his contention.

WATSON ANDREWS SUDDUTH.

Watson Andrews Sudduth was born near Sharpsburg, Bath County, Kentucky, on March 3, 1854. He was the son of William Lane and Judith Dorsey Sudduth, and a descendent

of Kentucky pioneers. His early education was received at home at the hands of his mother, whose proud privilege it was to educate her five children. This continued up to the time of his entering Centre College, Danville, Kentucky, from which he was graduated on June 18, 1874, standing second in his class. He immediately began the study of law, with the view of preparing himself for the Harvard law school, but business reverses swept away his father's fortune, and his father's death, which occurred shortly thereafter, left him the head of the family, without the means of carrying out his cherished dream of attending Harvard. His legal education was therefore completed in the office of his grandfather, Judge Landaff Watson Andrews, one of the most noted lawyers in Kentucky, a gentleman who was a warm personal friend of Clay and Webster, who had represented his district in the twenty-sixth and twenty-seventh Congresses of the United States as a Whig, although the district was largely Democratic, and who had presided as judge of his circuit during the stirring times of the civil war. Becoming associated with his grandfather, under the name of Andrews & Sudduth, he practiced his profession in Flemingsburg, Kentucky, until 1888, at which time (after the death of his grandfather) he moved to Louisville and formed a partnership with Henry L. Stone, under the firm name of Stone & Sudduth. This firm continued in existence until August 15, 1899, and was considered one of the strongest and ablest in Kentucky. After the dissolution of the firm of Stone & Sudduth, Mr. Sudduth associated himself with Lawrence S. Leopold and Elliott K. Pennebaker, under the firm name of Sudduth, Leopold & Pennebaker, but on November 29, 1899, this firm was dissolved by the sudden death of Mr. Sudduth, from heart failure, resulting from the shock which he sustained in a runaway accident. Although a comparatively young man, Mr. Sudduth was second to no lawyer in Kentucky, and had among his clients many of the largest national concerns. He was well known in the Supreme Court of the United States, before which high tribunal he had often

argued, and it can be justly said that in his death the bar of Kentucky lost one of its ablest members.

On December 17, 1879, Mr. Sudduth married Miss Mary McConnell, a descendant of the pioneer of that name who established McConnell's Station, now within the corporate limits of Lexington. His wife and three sons, George M., William L., and Watson A. Sudduth, Jr., survive him.

MAINE.

THOMAS HAWES HASKELL.

Thomas Hawes Haskell, one of the Associate Justices of the Supreme Judicial Court of the state of Maine, died at his home in Portland, on September 24, 1900, after a very brief illness, the serious character of which was not suspected until the day before his death.

The week before his death he opened a regular *nisi prius* term of his court at Skowhegan, and though weak and ill, continued to sit each day. He adjourned his court finally on the morning of September 22, and reached his home the same evening, only two days before his death.

The news of his death was a sad shock to his associates on the bench and to the community at large, for he had, apparently, been a man of vigorous health and constitution, was only fifty-eight years of age, and his friends might reasonably have anticipated for him many more years of useful service upon the bench which he had adorned for sixteen and a half years. When he adjourned court, the Judge took occasion to remark that it was the first time that he had been compelled by illness to do so.

Judge Haskell was born in New Gloucester, Maine, May 18, 1842. His father, Peter Haskell, was a farmer, and his early education was limited to the schooling which the country school house and a neighboring academy could afford. He was, however, ambitious to secure a better education and succeeded in

fitting himself to enter Bowdoin College, but was prevented from carrying out his cherished plan by the outbreak of the civil war, in consequence of which he enlisted in the Twenty-fifth Regiment of Maine Volunteers.

Upon the expiration of the term for which he had enlisted, he found that circumstances were such as to make it imperative that he should abandon all idea of a collegiate education, and devote himself immediately to the study of the law, that he might fit himself to earn a livelihood in that, his chosen profession, as soon as possible. He accordingly became a law student in the office of Judge Morrill, at Auburn, Maine, remaining there until his admission to the bar in 1865.

For a time he remained with his instructor, but removed to Portland in 1866, making that city his permanent home. He continued in active practice in Portland until he was called to the bench, March 31, 1884.

While in practice he was associated as law partner successively with the late Charles W. Goddard, afterwards judge of the Superior Court of Cumberland County, with William W. Thomas, the present Minister of the United States to Sweden, and with Nathan Webb, the present judge of the United States District Court for the district of Maine.

Judge Haskell, though his father was a farmer, and his own early training was that of a farmer's boy, had a natural aptitude and love for the law, which would seem to have been inherited, for, on his mother's side, he was related to Ezekiel Whitman, the third Chief Justice of Maine, while on his father's side he was related to Theophilus Parsons, the second Chief Justice of Massachusetts and to the late Peleg W. and Theophilus Chandler, of Boston.

Both as lawyer and judge, he was noted not only for his firm grasp of legal principles, but for an unusual quickness and perspicacity in their application to the facts of a case, however complex and confusing they might be, and a clearness of intellectual vision which enabled him to discern almost intuitively the particular fact or group of facts upon which a case turned.

He was an adept in all questions of pleading and practice, was firmly attached to the old forms of common law pleading, and never took kindly to any of the innovations introduced among them by statute, but stoutly maintained that the old forms, properly handled by competent attorneys, tended to simplify the issues to be presented to a jury and promoted the ends of justice, and that the statutory innovations in Maine and the various codes of practice adopted in other states simply encouraged slovenliness on the part of the attorney, and tended to confuse and make uncertain the issues presented to juries in complicated cases.

He was a good lawyer and gained the confidence and applause of his clients, while in practice, and of his associates on the bench and the members of the bar, when called to the bench, for his ability, integrity and industry.

His record as a judge is to be found in the Maine Reports beginning with the seventy-sixth volume, and continuing down to volume ninety-four.

His opinions touch all the great variety of topics arising in courts of last resort, having both legal and equitable jurisdiction, and are marked by their freedom from prolixity, and clear, forcible enunciation of legal doctrine. His relatives and friends may be well content to point to them as an enduring monument to his character and legal attainment.

Though not a graduate of Bowdoin College, he received the degree of Master of Arts from that institution in 1894, and was one of its Board of Overseers at the time of his death.

CHARLES P. STETSON.

Charles P. Stetson, for many years a member of the American Bar Association, died at his home in Bangor, Maine, on the 29th day of September, 1899, at the age of 64 years. Mr. Stetson graduated at Yale College in the class of 1855, being an honor man in his class, and at once entered upon the study of the law in the office of Rowe & Bartlett, a leading

law firm in his native city. His studies in an office were supplemented by a year's attendance at the Harvard Law School, from which institution he was graduated in the year 1858.

The three years passed in preparing himself for professional work were years of labor in a field which was to him entirely congenial. He developed an aptitude for the study of legal problems which, combined with a logical bent of mind, carried him to the fundamental principles of his cases both during the time of his preparation for professional work and afterwards during his professional career.

He early won a place among the leaders of the bar, which he held throughout an extensive practice in the federal as well as in the state courts.

During the later years of Mr. Stetson's life, his time and services were principally monopolized by corporations as their counselor, although he never formally withdrew from general practice.

The leading corporations in the part of the state where Mr. Stetson resided had also placed him in their boards of direction so that at his death he held many positions of trust, and the expressions of his associates in the different boards at the time of his decease indicated the great value placed upon his services in the deliberations of these boards.

Mr. Stetson's high character for integrity gave him a hold second to none upon the respect and confidence of his clients and fellow-citizens generally.

For political preferment he seemed to have no desire. For the law as a science, for the legal profession, for the judiciary, he entertained the most profound respect, and most fully recognized his duty and obligation to advance professional standards.

A lawyer now holding a leading position on the federal bench who was much associated with Mr. Stetson in some of the most important litigation in the state, has said in regard to him that although hardly surpassed in his thorough knowledge of decided cases, he never let go of the great principles of the law; that his mind could never be diverted by trifles or be led

to sacrifice the fundamental rules, and that he was as true as steel to the right of a cause and always thoroughly equipped to maintain that right with force and persistency.

Mr. Stetson was survived by a widow and an only son, Charles Stetson, a graduate of Yale of the year 1900, and at present a student at the Harvard Law School.

MASSACHUSETTS.

WILLIAM CROWNINSHIELD ENDICOTT.

William Crowninshield Endicott was born in Salem, Massachusetts, November 19, 1826, and died in Boston, May 6, 1900. He was the son of William Putnam Endicott and Mary Crowninshield Endicott, and a lineal descendant, in the eighth generation, from Governor John Endicott, who settled Salem in 1628. On his father's side his ancestors for five generations lived upon the "Orchard Farm," in Salem Village, now Danversport, which was granted to Governor John Endicott by the Court of Assistants on July 3, 1632. This estate, somewhat diminished in size from those early days, still remains in the family.

His grandfather, Samuel Endicott, moved to Salem at the end of the last century, and led a seafaring life. At one period Samuel Endicott and his five brothers were in command of vessels bound from Salem to distant ports.

Jacob Crowninshield, his maternal grandfather, was a prominent member of Congress from 1801 to 1808, was appointed Secretary of the Navy by Jefferson at the beginning of his second term, in 1805, was confirmed by the United States Senate, but though his commission as Secretary of the Navy is on file in the Department of State at Washington, he declined the honor, and remained a member of Congress until his death, in Washington, in 1808.

Mr. Endicott was educated in the public and private schools of Salem, entered Harvard College in 1843 from the Salem

Latin School, and was graduated therefrom in 1847. Among his classmates were Charles Allen, John Brooks Felton, Henry Larned Hallett, Richard Manning Hodges and Edward Tuckerman.

Immediately after graduation Mr. Endicott began to study law in the office of Nathaniel J. Lord, at that time a prominent lawyer in Salem. In 1849 and 1850 he was at the Harvard Law School, and in 1851 was admitted to the Essex County bar. In 1853 he formed a copartnership—Perry and Endicott—with Jairus Ware Perry, well known as the author of "A Treatise on the Law of Trusts and Trustees." For twenty or more years he was a leader of the bar until his appointment to the Supreme Court.

On February 23, 1873, the General Court of Massachusetts passed an act increasing the number of the Associate Justices of the Supreme Judicial Court to six. At that time there was no Democrat upon the Supreme Court. Governor Washburn, a Republican Governor, appointed Mr. Endicott to fill the judgeship thus created. The appointment was a surprise to Mr. Endicott, as there was no solicitation of any kind for the office, so far as he knew, and his first knowledge of the fact was when the offer was actually made. The court at that time consisted of Chief Justice Chapman and Justices Horace Gray, Jr., John Wells, James D. Colt, Seth Ames and Marcus Morton. During the next nine years Mr. Endicott devoted his time and strength to the work of the Court, and his opinions (378 in number) are to be found in the Massachusetts Reports, Vols. 112 to 133. The methods of work in those days were far more laborious than at present, owing to the lack of employment of stenographers and type-writers. In the spring of 1882 Mr. Endicott went to Europe, and on October 31, 1882, he resigned his seat upon the bench, remaining abroad for some eighteen months. At the time of his resignation Chief Justice Morton alone remained of his original colleagues.

In politics, at first a Whig, Mr. Endicott became a Democrat upon the dissolution of the Whig party. Though he never took a very active part in politics, he always interested himself more or less in city and state affairs.

In 1852 and 1853 he was elected a member of the Common Council of the City of Salem, and again in 1857, when he was chosen its President. From 1858 to 1863 he was elected City Solicitor of Salem. In 1870 he was a candidate for Congress as a Democrat in the Essex district, and for the years 1871 to 1873 he was Democratic candidate for Attorney-General of the commonwealth, but failed to be elected in both cases.

Mr. Endicott always took a deep interest in the welfare of Harvard College. He was a member of the Board of Overseers from 1875 to 1882 and from 1882 to 1884, and a member of the Corporation from 1884 to 1895, when he resigned. In 1882 he received the degree of LL.D. from his alma mater.

Mr. Endicott was President of the Salem Bank from 1858 to 1875; president of the Peabody Academy of Science in Salem from 1868 to 1897; president of the Essex County Bar Association from 1869 to 1873; trustee of the Peabody Educational Fund from 1891 to 1894; and trustee of Groton School from 1884 to 1896.

In the autumn of 1884 Mr. Endicott was Democratic candidate for Governor of Massachusetts. He accepted this nomination much against his will, and was defeated in the election. In February, 1885, Mr. Cleveland sent for Mr. Endicott, and offered him a place in his cabinet as Secretary of War. After considering the matter for a few days, Mr. Endicott decided to accept the position, and was Secretary of War during the four years of Mr. Cleveland's first administration, 1885 to 1889. After this Mr. Endicott led a retired life, and his public career was practically closed.

WILLIAM SWINTON BENNETT HOPKINS.

William Swinton Bennett Hopkins was born in Charleston, South Carolina, May 2, 1836, and died at Pinehurst, North Carolina, January 14, 1900.

He was the son of Erastus Hopkins of Northampton, and of Sarah H. Bennett of Charleston, South Carolina.

Colonel Hopkins was educated at private classical schools and at Williams College, where he was graduated in the class of 1855, and from which institution he received subsequently the degrees of Master of Arts, and in 1895 the degree of Doctor of Laws.

There were many brilliant men in that class who later distinguished themselves in the affairs of state and nation, and with whom Colonel Hopkins formed ties which were never severed. Among them may be noted United States Senators John J. Ingalls and Phineas E. Hitchcock, Charles E. Fitch, editor of the *Rochester (N. Y.) Democrat*, and Abram Lansing, since Treasurer of the state of New York.

Upon being graduated, he studied law in the office of the late Justice William Allen in Northampton and at the Harvard Law School, and was admitted to the bar January, 1858.

His first office was opened in Ware, in August of the same year, where he practiced his profession until the outbreak of the Civil War.

On October 9, 1861, he enlisted in the Thirty-first Massachusetts Volunteers, and served as Captain until December, 1862, when he was promoted to the rank of Lieutenant Colonel. His Colonel, Oliver P. Gooding, a regular army officer, being constantly in command of the brigade, his rank as Lieutenant Colonel left him in command of the regiment from his muster in until April, 1864.

In December, 1863, under orders, he converted his regiment into cavalry.

In 1864, he resigned his commission and was honorably discharged.

Upon leaving the army, Colonel Hopkins resumed his profession and took up the practice of law in New Orleans, where he remained from May, 1864, until September, 1866, during part of that period acting as special counsel for the United States Treasury Department.

Returning to Massachusetts, he established himself in Greenfield, where, from October, 1866, to October, 1873, he practiced his profession, part of the time in partnership with the late Hon. David Aiken. From there he came to Worcester, where he remained until the time of his death, being in partnership with the late Peter C. Bacon, the late Henry Bacon, Frank Bulkeley Smith, and his younger son, W. S. B. Hopkins, Jr.

From 1871 to 1874, he was District Attorney for the Northwestern District of Massachusetts, and from 1884 to 1887, District Attorney for the Middle District of Massachusetts.

In 1893 he was made City Solicitor of Worcester, which position he resigned in 1897.

Colonel Hopkins' practice was mostly confined to civil courts, and aside from his administration of the office of District Attorney, his practice in the criminal courts was limited. But few important criminal cases were accepted by him, the most notable being his defense of Clark Hatch, in Worcester, associated with other counsel, of Asa P. Potter, President of the Maverick National Bank, in Boston, and on his first trial, of Dr. J. C. Moore, in Manchester.

From early boyhood, Colonel Hopkins was a consistent Republican in his political life, and before he was of the proper age to vote, as a "Free-Soiler" he went upon the stump for General Fremont. His father was a Free-Soil and Republican leader of the state House of Representatives, and was a prominent member of the National Convention of 1860, which nominated Abraham Lincoln. Twenty years later, his son, Colonel Hopkins, was a member of the National Convention which nominated his college-mate, James A. Garfield, to the same office.

His interest in Republican principles never abated, and he was ready, on important occasions, to speak in public upon the questions at issue, but he did not care to hold political office and took no part in party management. Except where the office was of a professional nature, Colonel Hopkins always declined official stations.

He was honored by being chosen permanent chairman of the Republican state convention in 1897.

Colonel Hopkins, at the time of his death, was President of the Worcester County Bar Association, which position he had held for eleven years.

MICHIGAN.

SULLIVAN M. CUTCHEON.

For Sullivan M. Cutcheon the end of a well-ordered life came on April 18, 1900, when he was at the height of a steadily widening and deepening influence in the communities with which he was in contact.

The son of the Rev. James McCutcheon and Hannah McCutcheon (both Scotch-Irish, and he a Free-will Baptist minister), he was born at Pembroke, New Hampshire, on October 4, 1833, the fifth child in a family of six sons and four daughters. Eight years before he was born, the opening of the Erie canal had begun to attract the young men of New England to the rapidly developing West. His elder brother, Lewis, early crossed the mountains, travelling through the country north of the Ohio River, then breaking up into states; he gave popular lectures on the subject of physiology. In this vocation he not only came in contact with the educators of the new West, but he also met with considerable financial success. Sullivan, having accompanied his brother to New York state on one of these lecture trips, borrowed enough money to spend a year or more in study, first at McGrawville, New York, and afterwards at Oberlin, Ohio; and it was from Oberlin College

that as a junior he entered the class of 1856 at Dartmouth College. At that time the terms at Dartmouth were arranged with a view to permitting students to teach winter schools, and during a part of his senior year Mr. Cutcheon taught at the Ypsilanti Seminary, Michigan, where his elder sister, Harriet, was the preceptress. To this school he returned as principal, after graduating among the first of his class; and in 1858 he was called to Springfield to superintend putting in operation the free public school system at the capital of Illinois. While in Springfield he studied law, and was admitted to the bar; he formed the acquaintance of Abraham Lincoln and played ball with him during those hours of relaxation that Lincoln found time for during the increasing activities of political life.

In December, 1859, Mr. Cutcheon married Josephine Louise Moore, and the next year they returned to Ypsilanti, where he opened a law office.

A young lawyer, widely acquainted, very popular and an effective speaker, Mr. Cutcheon was elected to the state legislature at the outbreak of the civil war. His companions were selected from among the ablest lawyers and the most respected business men of the state. Great constitutional questions were debated, and right conclusions were reached in that backwoods capital at Lansing. During the sessions of 1863-4, Mr. Cutcheon was Speaker of the House, although he was the youngest man in it. During his services, the qualities, fairness and impartiality which in after life proved among the most useful of all his qualifications, both to himself and to others, came to be recognized. Mr. Cutcheon liked politics as politics. He liked the excitement of the game, the influencing of men to right ways of thinking on topics of state, the excitement of victory. He was a great campaigner, because to many of the graces of the orator, he added the one essential, absolute sincerity and intense moral earnestness.

After his legislative service ceased in 1865, he never again held an elective political office. Congressional aspirations, which if persisted in must have been successful, he put aside,

first, for the sake of party harmony and, afterwards, because he had found a more congenial sphere of activity. Appointed by Lincoln, removed by Johnson and reappointed by Grant, Mr. Cutcheon was for seven years the National Bank Examiner for Michigan and Indiana; and during those years he acquired that intimate knowledge of the banking business which he afterwards utilized not alone as president of the Dime Savings Bank of Detroit and of the Ypsilanti Savings Bank, but also preeminently in his professional handling of great estates.

In 1877, Mr. Cutcheon was appointed United States District Attorney for the eastern district of Michigan, and with the appointment came the opportunity for wider professional work than was afforded by practice in a small town. Already his acquaintance throughout the state of Michigan was wide; for, besides having come in contact with the bankers and business men of both peninsulas, he had presided over the deliberations of the Constitutional Convention of 1873, a body of eighteen able men who presented changes in the organic law of the state, but whose work was rejected by a people unwilling to give up the extreme limitations on legislative action adopted in 1850. At this time the district bench was occupied by Judge Henry B. Brown, now a Justice of the Supreme Court of the United States. It was Mr. Cutcheon's theory that his duty was not so much to obtain convictions as to see that justice was done; and his success with juries was due largely to their implicit confidence in his presentation of the case. With offenders he was severe; but to the unfortunate he was kind and helpful.

A jurist rather than an advocate, it was his pleasure to take up an intricate case and study it in all its phases, giving particular attention to the historical side. Notable among his researches were his studies into the laws relating to suicide, especially in relation to life insurance; and his researches into the laws relating to bequests for public uses as developed in the

Detroit water works case that grew out of the Hurlbut estate bequests.

He placed his business aptitude at the service of the community in various effective ways. He quieted financial disputes that would have ripened into business scandals. From his own income, which was more than ample to support his quiet mode of life, he gave with great comparative liberality to various public benevolences in which he was keenly interested. Especially, however, was he able to obtain for the Young Men's Christian Association, for Harper Hospital, and for other such institutions, the large gifts which came the more willingly because they were to be dispensed under his active direction as president of those institutions.

To charities and benevolences, and to the spiritual, temporal and administrative work of the Presbyterian Church, he gave largely of his time, thought and means. It was a pleasure to work with him, for he found out and utilized the best that was in his colleagues. His own mind, enriched by constant study and reading, as well as by travel, was constantly open to new truth. There was never anything reactionary in his disposition; but his sympathies and his help were always given to the progressive party, even while he accepted extreme theories tentatively, and for himself allowed old truths to be modified rather than abandoned.

As a member of the Michigan delegation on the commission to secure uniformity in state laws, he was regular in his attendance at the meetings, and earnest in securing legislation, especially on the subject of negotiable instruments.

At different times he was president of the Michigan Bar Association and of the Michigan Bankers Association, and for several years he was a member of the state Military Board.

Touching the life of the community at so many points, it is small wonder that his death, coming at a time when his usefulness was greatest, brought forth expressions of appreciation from many widely different elements, each of which felt that he belonged to them by peculiar personal ties.

MINNESOTA.

WILLIAM E. TODD.

William Elmer Todd, of Albert Lea, Minnesota, a well-known public man in that state, was born at Geneva, Kane County, Illinois, August 14, 1853, and died at Mankato, Minnesota, November 11, 1899. His sudden and untimely death was a great shock to his legion of friends and a great loss to the community and the state. Mr. Todd was in the prime of his manhood and his usefulness, and he was withal a man of strong parts, a rare, accomplished and brilliant lawyer, a faithful public official and a knightly gentleman. His family moved to Merrimac County, Wisconsin, in 1855, where Mr. Todd obtained his early education. After attending the high school at Columbus, Wisconsin, in 1869, he entered the Jefferson Liberal Institute at Jefferson, Wisconsin, where he remained two years, paying his way through school by outside work. He entered the University of Wisconsin at Madison, and graduated with honors in 1877. He was married to Miss Alice I. Coapman, February 22, 1880, and in 1881, after having been admitted to the bar, he removed to Albert Lea, Minnesota, where he has since resided. He was a member of Apollo Commandery No. 12, Knights Templar.

Mr. Todd always took an active part in the affairs of his community and his state, and held a number of public positions, the duties of which he discharged with much honor and credit to himself.

Inheriting a strong intellect, Mr. Todd was from his early childhood, a close student of literature and a lover of nature and of art. As he grew in his profession, its grand principles fascinated him, and up to the hour of his death he pursued the study in his chosen field with devoted zeal and industry. He literally "died in the harness," being stricken down by apoplexy while in the federal court room at Mankato, engaged in the trial of a case.

Mr. Todd had secured a large clientage and a lucrative practice; he was the attorney for numerous business firms and associations, and a number of railroad corporations, and he had an extensive general practice as well.

A brother lawyer thus describes Mr. Todd's professional character:

"His knowledge of the law was reinforced by an almost intuitive understanding of human nature, and these qualifications were the real foundation of his success as a practitioner in the district and supreme courts of Minnesota, Wisconsin and South Dakota. His analytical mind rarely failed to discover the flaws in the testimony of a witness or the weakness in the argument of an opposing counsel, and his earnest manner and persuasive voice impressed the logic of his case upon the hearer with convincing force. He always tried his cases promptly and fairly."

His personal qualities were most striking. He was a man of attractive presence, bright, spirited and debonair. His large, warm heart matched his active, intelligent brain. From his boyhood his character was pure and noble. He is survived by his wife and a daughter.

MISSISSIPPI.

ROBERT ANDREWS HILL.

On the morning of the 2d of July, 1900, at his home in Oxford, Mississippi, Judge Robert Andrews Hill, laden with years and the fruits of a life well spent, passed to his last rest and reward as gently as a child falls asleep. There were no clouds about his western horizon, and his sun went down amid a radiance that suggested the beauty and the glory of the day through which he had passed and for which he had lived and builded his character.

For some time previous to his death Judge Hill was the oldest living United States Judge, having passed into his

ninetieth year on the 25th of March, 1900. He was born in Iredell County, North Carolina, in 1811, moved to Williamson County, Tennessee, in 1816, and lived with his parents and worked upon a farm until after his marriage in 1833 to Miss Mary Luckey Andrews, with whom he lived for sixty-six years and by whom he had two children, a son and a daughter, one of whom, Mrs. George R. Hill, survives him. He became a justice of the peace in 1835, at that time an important office in Tennessee, which position he held till he began the practice of law in 1844. He was elected prosecuting attorney for his district by the legislature in 1847, and again at the polls in 1853, in which capacity he continued to serve the people till 1855, when he moved to Jacinto, Tishomingo County, Mississippi, where he formed a law partnership with Judge John F. Arnold. He was elected probate judge in 1858 and served until 1865, when he was appointed as special chancellor for his district by Governor Sharkey. This position he held until the establishment of the regular courts under the new constitution of the state after the civil war. At the beginning of the war he was too advanced in years to be subject to active military service, but the gentleness and strength of his character combined with his rare common sense rendered him practically invaluable as a mediator between the armed forces and the people of that portion of the state in which he lived. He was a member of the constitutional convention in 1865 and took an active part in framing the present judicial system of the state. He was appointed United States District Judge for the state of Mississippi in 1866 by President Johnson. In this capacity he served the state and the United States with great credit and distinction until his resignation in 1891. After his retirement he gave a large portion of his time to his family and to his immediate friends, and among the latter he was always happy to count "the boys" of the university, and especially those of the law classes, to whom he delivered lectures regularly every session, and for whom he acted as judge of their moot courts, which he

succeeded in making so much like real courts as to make them a source of much interest to himself and profit to them. Nor was the profit all theirs, for his interest in them was not greater than theirs in him, and in their bright faces and from their cheerful conversation he saw and heard so much of youth that in head and heart he forgot to grow old. There was a little dimness of vision, a little dullness of hearing, a little stooping of the shoulders, but his head was still erect and in his heart was a fountain of youth, thanks to the boys and his young friends everywhere.

His early years were spent among public and private schools and well-equipped colleges and universities, but he acquired, among an honest and religious country folk, habits of industry and integrity, and treasured in a retentive memory those things which make a man good, learned and great. He was a devout Christian, an honored citizen, a beloved and trusted friend, a peace-loving but courageous man, a kind, tender, loving and lovable husband, father and grandfather, a just judge—perfectly approachable and absolutely incorruptible. He was a member of the American Bar Association, and at one time President of the Mississippi Bar Association. He filled well every station in life to which duty, pleasure or honors called him, and it is with no dimmed vision that those who knew him best can see that he has entered fully into whatever there is of rest and reward for the good, the brave and the true.

MISSOURI.

JAMES M. LEWIS.

James M. Lewis was born in Polk County, East Tennessee, in 1858; he was of Scotch-Irish ancestry, and was named after his maternal grandfather. He was educated at the University of Tennessee, and at the age of nineteen, he came to

St. Louis and became a student in the law office of his relative, ex-Senator John B. Henderson. He was admitted to practice as an attorney and counselor-at-law, in 1879, in St. Louis, and soon thereafter removed to Louisiana, Pike County, Missouri, where he began the practice of his profession. He returned to St. Louis in the spring of 1882, and became associated in the practice with his preceptor, General Henderson, and remained with him until the latter removed to Washington.

Mr. Lewis continued steadily in practice until his death and stood well among his professional brethren. He was engaged in some of the most important cases ever tried before the courts of his state, and always attended to the interests of his clients as a diligent, honorable and high-minded advocate. Notably among these cases was that involving the possession and management of the St. Louis Post-Dispatch, in which he represented Charles H. Jones as against Joseph Pulitzer and others.

He was elected a Vice-President of the American Bar Association from Missouri at Saratoga, New York, in 1890, and at Milwaukee, Wisconsin, in 1893.

In February, 1897, Governor Stephens appointed Mr. Lewis police commissioner for the City of St. Louis, and he was selected for vice-president of the board, in which capacity he continued until he resigned in the fall of 1898.

He was a member of the St. Louis, Jockey and Noonday Clubs, a Knight Templar, a Shriner and a member of other fraternal organizations. His many companionable qualities made him an exceedingly popular clubman. He was a gentleman in the very best sense of that word. In the practice of his profession he was at all times the soul of honor, and in the conduct of his business the interests of his clients were observed with the utmost degree of fidelity and integrity. In his death, the St. Louis bar has lost a member who bade fair to take rank among its best ornaments.

NEBRASKA.

NATHAN S. HARWOOD.

Nathan S. Harwood, of Lincoln, Nebraska, died January 5, 1900. He was the representative of a large class of persons in modern times, and especially in this country, who, by industry, perseverance and native talents, are able, from humble beginnings, to advance, by steady gradations, to positions of prominence and influence.

He was born on the 18th of June, 1843, at Corey's Lake, near Constantine, St. Joseph's County, Michigan, the youngest of a family of nine children, and had the misfortune to lose his mother, by death, at the age of eight years. Shortly afterwards the family moved to Blackhawk County, Iowa, and, having completed the common school course, he began his higher education in the fall of 1860 at the Upper Iowa University, at Fayette. In 1861, however, his student life was interrupted by the outbreak of the Civil War, and in August of that year, at the age of seventeen, he enlisted in the 9th Iowa Volunteer Infantry, but was invalided and discharged soon after the battle of Pea Ridge, in which he participated with his regiment.

Resuming his studies, he remained at the university until the early spring of 1864, when his health had so far recuperated that he accepted a commission as First Lieutenant in the 46th Iowa Volunteer Infantry, and reentered the military service, in which he continued until his regiment was mustered out at the close of the war. Subsequently he completed his collegiate course at Hillsdale College, Michigan, and in 1870 was graduated from the college of law at Albany, New York. In the winter of 1871 he moved to Lincoln, Nebraska, where he began the practice of his profession, and where he afterwards resided until his death.

The life of a lawyer, unless it is diversified by occasional excursions into the field of politics, or by employment in

causes of public notoriety, is affected by but few incidents of general interest. Its pathway traverses a more or less elevated but monotonous plain devoid of variety and of the picturesque. Its incessant labors are performed in the secrecy of the closet and the comparative obscurity of the court room, and its pecuniary rewards are small. The applause of successful endeavor is that of the few persons who are directly interested in the results of particular litigations. Adventitious aids Mr. Harwood had not, but he speedily attained to a well-deserved reputation for ability, integrity, industry and perseverance which elevated him to a position in the front rank of his profession, and which secured for him universal respect and honor in the state and city of his adoption. The principal occupation of a lawyer, more especially in a young and growing commonwealth, is that of leadership in the modern substitute for private war. Controversies that were formerly settled by tilt and tourney or with lance in rest by barons and their armed retainers, are now fought out, with less harmful weapons, before courts and juries; but the importance of the matters at stake is often as great, and the passions enlisted are the same, as in the older contests. Nothing, therefore, can speak more highly of the character of a man than that for a third of a century he has been actively engaged in the successful practice of the law, having had committed to his care a great number of important and hotly-contested cases, and that at the end of that time he departed this life universally esteemed as an upright, honorable and courteous gentleman, and, wherever known, respected and mourned by his contemporaries—with the envied and enviable reputation of a “true knight.” This much can be said of him. It goes without saying, perhaps, that such a man was familiar with the main facts of history, especially of his own country; that he took a lively interest in the political and social questions of his time, and in literature, the arts and sciences, and the progress of civilization, and that he contributed to the extent of his abilities towards the solution, for himself and associates, of those problems of

life and mind upon the correct solution of which are dependent the perpetuity of our institutions and the continued intellectual development and moral well-being of the race.

NEW HAMPSHIRE.

HARRY BINGHAM.

Harry Bingham was born in Concord, Vermont, March 30, 1821. He was descended from Thomas Bingham 3rd, who came from England to Norwich, Connecticut. He was educated in the academy at Lyndon, Vermont, and at Dartmouth College; he graduated from the latter institution in 1843. Later he studied law in Concord and Lyndon, and with Harry Hibbard at Bath, New Hampshire. He was admitted to the bar of New Hampshire in 1846, and in the same year began the practice of his profession in Littleton, where he afterwards resided. He died at that place September 12, 1900.

Among his partners in more than half a century have been his brother, Geo. A. Bingham, Chief Justice Woods and his son, Edward Woods, both of Bath. Mr. Bingham's associates at the time of his death were John M. Mitchell, of Concord, Albert S. Batchellor, editor of state papers, and William H. Mitchell, both of Littleton. Probably no contemporary lawyer in the state had been engaged in the trial of more important cases than Mr. Bingham. Prominent among them were the celebrated Concord Railroad cases and the investigation into the administration of President Bartlett of Dartmouth College.

Mr. Bingham was from his youth a Jeffersonian Democrat. In 1861 he was elected to represent Littleton in the legislature, and was re-elected seventeen times. He was a member of the Constitutional Convention of 1876, and chairman of the committee on the legislative department. He also served two terms in the state senate, 1883 and 1885. He was twice

nominated for Congress and seven times named by his party's representatives in the legislature for the United States senate. He was a delegate to the National Conventions of 1872, 1880, 1884 and 1892, and candidate for Presidential Elector in 1864, 1888 and 1896. He was named chief justice of the supreme court in 1874 by Governor Weston, but was defeated by division in the council. In 1880 he declined an appointment to the bench tendered him by Governor Head.

He was a member of several learned societies, and from 1893 until his death, was president of the Grafton and Coos Bar Association. Of late years he had made many important contributions to political, philosophical and historical literature. He was one of the national Democrats who steadfastly refused from the first to support the principles and candidates of the Chicago platform.

This brief outline of the more salient points of his career may well be supplemented by the very accurate analysis of his character and accomplishments as a man and as a lawyer which was lately placed upon the records of the Supreme Court of New Hampshire by request of the bar of Grafton County.

"By the death of Harry Bingham, the state of New Hampshire has lost a good citizen, a learned and conscientious lawyer and an honest man.

"He was sturdy and resolute in his opinions, which he formed by careful and patient study and reflection, and which, while seriously examining and weighing all arguments against them, he was always ready to defend.

"He was animated by a spirit of the loftiest patriotism and he never consented to, or supported a policy which his judgment did not hold to be for the public welfare.

"Being endowed by nature with superb physical and mental powers and unquestioned genius for the law, by conscientious efforts and study and unwavering fidelity to the courts and his clients, he early achieved and for more than half a century maintained, an exalted rank in his profession.

"His kindly nature and generous spirit endeared him to his professional brethren, and his recognized lofty principles of

action and uniform uprightness, ensured for him public confidence and trust.

“Honored is the state which numbers among its citizens such men.

“While recognizing his profound legal learning, we are not unmindful of his broad statesmanship and his attainments in literature, history and philosophy, in all of which lines, during his long life, he was a diligent and thorough student, and became a master.

“The fine traits of his nature were manifested by the calmness with which he bore a long and hopeless sickness, during which he examined with judicious fairness his long life, and was able to feel that he had run a good course, and could meet the inevitable earthly end with an unfaltering trust: ‘Like one that wraps the drapery of his couch about him and lies down to pleasant dreams’.”

JOHN LANGDON SPRING.

John Langdon Spring, of the New Hampshire bar, died at his home in Lebanon, May 29, 1900. He was born in Newport, New Hampshire, January 14, 1830. He was the son of John C. and Lorena A. (Jaquith) Spring. He was a grandson of Josiah C. and Betsey (Clark) Spring, and a great grandson of Converse and Mary Spring, who were among the early settlers of Watertown, Massachusetts. His early education was received in the district schools, and he fitted himself for his professional work by his own efforts and industry. He prepared for admission to the bar in the office of Hon. C. W. Woodman and Hon. Thomas J. Wentworth, at Dover, and was admitted at Manchester in 1860. The first years of practice were spent in Wilton, from which place he moved to Milford, continuing in practice there until 1870, when he went to Lebanon. In addition to his professional work, Mr. Spring was always active in public affairs. He represented the town in the Constitutional Convention of 1876, and was sent to the legislature in 1891, 1893 and 1895. He was a

Mason, being a member of Franklin Lodge, and Blazing Star Chapter. He took a great interest in Odd Fellowship, and for over forty years devoted much of his time to its work. He was a member of Masconia Lodge, and served as Grand Master of the state and Grand Patriarch of the Encampment for four years. He was sent several times as Grand Representative to the Sovereign Grand Lodge, and in 1869, was one of the delegates representing his state in that Grand body when it met in San Francisco on the opening of the Union Pacific Railroad. He was one of the founders of the Odd Fellows Home at Concord, and served on its board of trustees since its establishment. For several years he was president of the New Hampshire Board of Trade. Mr. Spring was married in 1856 to Ellen M. Fountain, of Moriah, New York. Four children survive him.

To tell the story of Mr. Spring's long life would be a description of a life filled with tireless industry and crowned with success. He was devoted to his profession. He took a high rank. A good speaker, of commanding and attractive presence, he was engaged in a large practice and concerned in the most important litigation of his section of the state. He not only was successful in the routine of strictly legal affairs, but delighted in the complicated situations of business life. For the last thirty years he has been a well-known figure in the affairs of his state and town. Though not a college man himself, he received the honorary degree of A. M. from Dartmouth, and his three sons were educated there. As a member of the American Bar Association, he was for a long time an interested and active attendant upon its meetings. He was for several years one of its vice-presidents. Sturdy and self-reliant, courteous, yet dignified and firm, genial, yet wedded to the forms and rules of the law, he was a typical son of New Hampshire, and one of that grand body of able, zealous men who have made the old state famous in the nation and the world, and whose names are ever suggestive of that success which comes to well-directed and intelligent effort.

NEW JERSEY.

JAMES BUCHANAN.

James Buchanan, whose death occurred at Trenton, New Jersey, on November 31, 1900, was born of Scotch and English parentage at Ringoes, Hunterdon County, New Jersey, on June 17, 1839. After receiving a common school and academic education, he entered upon his legal studies in the office of Hon. John T. Bird, a former member of Congress and late Vice-Chancellor of New Jersey; he completed them at the Albany University Law School, and was admitted to the Bar of New Jersey in 1864. He began the practice of the law in Trenton. Early in his career Mr. Buchanan obtained political preferment, being elected a member of the Board of Education and a member of the Common Council of Trenton. He served acceptably in that capacity for four years, and subsequently was appointed law judge of the county of Mercer. In 1885 he was elected a member of Congress, where he represented the second congressional district of New Jersey during four successive terms. The interests of his district being highly diversified, his actions in behalf of his constituents greatly added to his popularity by his urging the recognition of the potters and in his pleadings for the life saving service crews and his services in the House committees on Labor, Manufactures, Claims, Patents and Judiciary, and in his discussions before the House upon the tariff, revenue, shipping, and kindred economic topics.

As a lawyer he was industrious, scholarly in research, clear in his presentation of the law and facts of the cases entrusted to his care and management, and incisive in argument before the courts, and, consequently, enjoying the confidence and respect of the Bench and Bar.

Mr. Buchanan was twice married. His first wife, to whom he was married in 1863, was the daughter of Thomas and Jane H. Bullock, of Flemington, New Jersey, who died, leav-

ing a son, Arthur, to survive her. In 1887 Mr. Buchanan married Irene S. Koones, of Washington, D. C., who survives him.

NEW MEXICO.

HENRY LUCIEN WARREN. •

Henry Lucien Warren died on June 22, 1900, at his home in Albuquerque, New Mexico, at the age of sixty-three years, after a lingering illness of four months. He was one of the most prominent lawyers in the Southwest, and the only member of the American Bar Association from New Mexico.

Judge Warren was born in Warsaw, Illinois, in 1837; he was the son of Calvin A. Warren, a famous State Attorney and a contemporary of Bushnell and Browning. He received his first schooling at Quincy, Illinois, but as he came from a family of lawyers and showed every sign of advancement, he was sent to St. Louis to attend Wyman Institute and finished his education at Brown University, later going to the Annapolis Naval School, where he formed the acquaintance of such men as Admirals Dewey and McNair, and Ex-Governor McEnery, of Louisiana, who were his warmest friends when he died.

Henry L. Warren first practiced law at Quincy, Illinois, then went to St. Louis, where for a number of years he was counsel for the Iron Mountain Railroad. Returning again to Quincy he was appointed by President Johnson as Chief Justice of Montana and was re-appointed by President Grant. At the end of his term he took up his residence at Quincy, but failing health prompted him to seek other fields, and he went to Maryville, Missouri, where he entered into co-partnership with Hon. S. G. McEnery. About 1880 he went to St. Louis, but upon his physician's suggestion he went to Leadville, Colorado, and from there to Santa Fe, New Mexico, and in 1890 to Albuquerque.

Judge Warren was married when quite a young man to Mary L. Warren, to whom were born four children, but only one son, Paul A. Warren, now in the Philippine service, survived him.

One of Judge Warren's oldest friends paid his memory the following tribute at the close of the last sad rites, which were performed at Quincy, Illinois, June 26, with Masonic honors.

"The grave may swallow up the dead, but the memory of Judge Warren's kind deeds, unswerving character and great ability will never be buried."

NEW YORK.

CHARLES AUGUSTUS DAVISON.

Charles Augustus Davison was born at Saratoga Springs, New York, on May 21, 1824. His parents were Gideon M. and Sarah Mason Davison.

He graduated from Williams College in 1845, and then taught for a year in a private school in New York City, while at the same time pursuing his law studies under the direction of Hon. Chesselden Ellis, formerly a member of Congress from the Saratoga district. On being admitted to the bar, he entered at once upon the practice of his profession in New York, in partnership with Mr. Ellis and with Mr. John E. Burrill, under the firm name of Ellis, Burrill & Davison. This continued until the death of Mr. Ellis, when a new arrangement was made by the two surviving partners with a brother of Mr. Burrill, and the business went on under the names of Burrill, Davison & Burrill, until 1881. Then, after a long and severe illness of Mr. Davison, the firm was dissolved, and he was in business alone until 1893, when failing health obliged him to retire.

Mr. Davison married, on the 6th of June, 1850, Mary A., daughter of William M. Vermilye, of the banking house of

Vermilye & Co., of New York. They had two children, a son and a daughter.

In 1878 Mr. Davison was elected a permanent member of the Board of Trustees of Williams College. He was a member of the New York Historical, Geographical and Natural History Societies, as also of the Metropolitan Museum of Art and the Phi Beta Kappa Society. For some years he was a member of the Union League Club. He was also for many years a member of the Board of Managers of the New York Bible Society, and at one time the Corresponding Secretary of the Board.

Mr. Davison was a member of, and for more than forty years an elder in, the Presbyterian Church.

For several years Mr. Davison had been in feeble health, and in December, 1899, he went to Augusta, Georgia, hoping for beneficial effects from a winter in a milder climate. He died there on January 19, 1900.

OHIO.

CHARLES PRATT.

Charles Pratt was born January 28, 1828, near the city of Rochester, New York, to which place his father, Alpheus Pratt, a descendant of Puritan ancestors, moved in 1819 from Massachusetts. In 1833, with his father's family, he moved to what was then known as "Bean Creek," now Hudson, in the state of Michigan, where he passed his youth and early manhood. He attended the public schools of his neighborhood until he was sixteen years of age, then attended a select school at Adrian, Michigan, and afterwards the seminary at Albion, Michigan, where he finished his education. During these latter years he taught school a part of each year, and thus earned the means of continuing his education.

In 1850 he commenced reading law in Adrian, Michigan, and soon after entered the law office of Hill & Perigo at

Toledo, Ohio, as a student, and remained there until he was admitted to practice in 1852. Soon after his admission to the bar he succeeded Mr. Perigo in the firm, which became Hill & Pratt, and thus continued until about 1870, although after 1861, when General Hill entered the army, the latter's connection with the firm was but nominal. Mr. Pratt then entered into a partnership with Charles C. Starr, which continued until July, 1872, when Mr. Pratt formed a partnership with Charles G. Wilson, as Pratt & Wilson, which continued until the elevation of Judge Pratt to the bench in 1895.

Judge Pratt was an able and learned lawyer. His mind was peculiarly keen and receptive. During an active and extensive practice for forty years at the bar, he had mastered the fundamental principles of the law, and was always ready for any emergency in his practice. While not brilliant as an orator, in the sense that with rounded phrase and eloquent peroration he could sway men's feelings and passions, he was clear and forcible in debate, and presented legal questions to a court, or questions of fact to a jury, with marked ability and was an aid to either in the questions to be decided. He abhorred the pettifogger and trickster. The honor of the profession was very dear to him. This naturally led him to be active in the Bar Associations of the county, state and nation, and his brethren honored him with the presidency of his county and state associations, where his addresses have added much to the literature of the profession.

Judge Pratt was elected as a Judge of the Court of Common Pleas in the fall of 1894, took his seat in February, 1895, and served the full term of five years.

On the bench Judge Pratt was fearless, conscientious and untiring. He meted out justice with an equal and kindly hand, and with a wisdom born of forty years of wide experience at the bar. He refused a reelection at the end of his term, February 8, 1900, and resumed the practice of law, but died in a few weeks thereafter.

He was married in 1857 to Catherine Sherring, who, with six children, survives him.

He died on March 15, 1900, after a brief illness brought upon him by his arduous labor in attempting to dispose of all the business of his court before leaving the bench, and by exposure to a severe winter storm a few days before his death.

For fifty years he was a citizen of Toledo, Ohio, and no one stood higher in the esteem of her people; for almost fifty years he was a leading lawyer of his city and state and won the respect and admiration of his professional brethren.

PENNSYLVANIA.

WILLIAM HENRI ADDICKS.

William Henri Addicks was born March 4, 1854, in Philadelphia, where his father, John E. Addicks, was for many years Health Officer. He was educated at private schools, and subsequently attended Princeton College, where he was graduated in 1876. Immediately afterwards he commenced the study of law in the office of George L. Crawford in Philadelphia, was admitted to practice there on February 16, 1878, and soon became one of the assistant city solicitors.

He was connected with this office in various positions for many years, and became well known during that time as the solicitor in charge of the road cases for the city. In this work he showed great ability and attracted the attention of both the Bench and the Bar. He collected and published all the acts of the legislature of Pennsylvania upon road laws relating to the City of Philadelphia, and became an authority upon the subject, trying a great many cases.

When the Baltimore and Ohio Railroad built its branch into Philadelphia, known as the East Side Railroad, Mr. Addicks was selected to defend the many damage cases brought against it, and in the trial of these cases was pitted against the best legal talent. So well did he acquit himself that he

became the General Attorney for the Baltimore and Ohio Railroad in Philadelphia, a position which he occupied until the time of his death.

Besides this position, he took an active part in the management of the company, and at the time of his death was president of the Schuylkill River East Side Railroad Company and of the Baltimore and Philadelphia Railway Company.

In addition to his railroad business, he had a large road practice which his connection with the City Solicitor's office had preeminently fitted him for, and in which there was no man at the bar who was more thorough in the preparation, more painstaking in the trial, or more successful in the winning, of causes.

On December 15, 1897, he married Anna Wetherill, daughter of John Price Wetherill, of Philadelphia, who, with one son, survives him.

He died February 24, 1900, at the age of forty-six years, having established himself in a strong and enviable position both as a lawyer and a citizen.

JACOB F. SLAGLE.

Jacob F. Slagle was born in Washington, Washington County, Pennsylvania, on April 6, 1830. He died suddenly, at his home in Pittsburg, on September 6, 1900. At the time of his death he was one of the judges of the Court of Common Pleas No. 1, of Allegheny County, Pennsylvania. He was graduated from Washington (now Washington and Jefferson) College in the class of 1848. For a time he taught school and afterwards read law with Hon. Thomas M. T. McKennan, in Washington.

He was admitted to the bar of Allegheny County on December 10, 1852, and immediately began active practice. In 1856 he and the late Judge White formed a law partnership, which was dissolved in 1873, when Judge White was elevated to the bench. In 1861 he enlisted, and in 1862 reenlisted in

Company D, 149th Pennsylvania Volunteers, and remained in the service until 1865. He was first lieutenant, captain and then major. He took an active part in the battles of Chancellorsville, Gettysburg, The Wilderness, Petersburg and others. He was wounded in the battle of The Wilderness, after which he was assigned to the Judge Advocate General's department, where he remained until the war ended, when he returned to Pittsburg and resumed the practice of law. After Judge White's elevation to the bench, Judge Slagle formed the partnership of Slagle and Wiley, and in 1887 was elected to the position which he held at the time of his death, and to which he was reelected in 1897. He was City Solicitor of Pittsburg in 1861.

The sudden death of Judge Slagle was a very serious loss to the public. It is impossible to do justice to the varied characteristics and actions of this noble man in a brief sketch of his life.

Judge Slagle was a man of affairs, of great force of personal character and varied experience. Hard study and close application, combined with honesty and fidelity, soon made him a sound and successful lawyer, and gave him a highly honorable position in his chosen profession. It has been very aptly said of him by one of his warmest friends, that "the courage which made him a good soldier made him a good man, a good lawyer and a good judge. It was not a mere physical, it was a moral courage." As a soldier on the battlefield, as a lawyer engaged in many important cases, and as a judge upon the bench for many years, he always proved himself worthy of his trust, and earned a permanent place in the public esteem.

Judge Slagle was of a judicial frame of mind, and his career on the bench was marked by an extreme desire to do justice in every case that came before him. It has been said of him that at times he was somewhat blunt in his manner, but underneath it all there was a kind heart and a sympathetic nature. Seldom, indeed, is suavity of manner joined with

that energy which is necessary to the dispatch of legal business. The combination is perhaps only ideal. But better than this, Judge Slagle combined a kindly nature with a most intense desire to do what was right. This latter was the one characteristic which stood out from all others. To know his duty and do justice between man and man was a part of his very nature. By this he was steadily actuated, and to gain this there was no labor that he was not willing to undergo. Every lawyer when he submitted his client's cause to him knew that it would receive an honest and an unprejudiced consideration.

But he was faithful not only in the discharge of his judicial duties; he was equally loyal and true to the proper discharge of home duties, social duties and political duties. He was no mere figure-head in the many organizations with which he was connected. He was a leader in every one of them. The question with him was, as he said in his last address to his Command of the Grand Army, "How do men use their lives? How much has the man lived, and not how long?" He himself had lived out man's allotted time, and with a clear conscience and the confidence and respect of all who knew him, his life and his labors ended at the same time.

VERMONT.

EDWARD J. PHELPS.

Edward J. Phelps died at his winter residence at New Haven, in March last, at the age of seventy-seven.

He was one of the fourteen signers of the original call of the meeting at Saratoga in 1878, at which this Association was organized. He took a prominent part in its proceedings from the first, and in 1879 delivered the Annual Address. His subject was John Marshall, and it may be doubted if on the coming "John Marshall Day," in 1901, the memory of that great Judge will receive from any hand a more graceful

tribute than that which was then paid by Mr. Phelps. He spoke without notes and with the added power which that gives to one whose command of language is equal to his command of his subject. Every word fell in its place, and every sentence lent force to what had gone before and to what was to come after. No one who had the good fortune to be one of that audience could ever forget the deep impression which it produced. Mr. Phelps had been before well known at the bar of New England and New York, but from that hour he had a national reputation as a finished orator.

The main events of his life may be briefly stated.

He was the son of the Hon. Samuel Shethar Phelps, of Middlebury, Vermont, who was successively an associate judge of the Supreme Court of that state and one of its senators in the Senate of the United States. In 1840, at the age of eighteen, he was graduated from Middlebury College, and entered the Yale Law School. Among his classmates at the latter institution were Governor Richard D. Hubbard, of Connecticut; Governor John Gregory Smith, of Vermont, and Professor Theodore W. Dwight, of the Columbia Law School. After a year at Yale, he completed his legal studies at Middlebury, in the office of the Hon. Horatio Seymour, LL.D., who had been a senator of the United States. He commenced practice there, but soon removed to the principal city of his state, Burlington, which remained his home for the remainder of his life.

In 1851 he was appointed Second Comptroller of the Treasury of the United States, and took up his residence in Washington for a couple of years. There he was able to cultivate, under favorable circumstances, a closer study of international law, and did not neglect the opportunity. Returning to Burlington at the close of the Fillmore administration, he soon rose to a leading position at the Vermont bar.

In politics he was originally a Whig, and on the dissolution of that party was one of those who identified themselves with the Democratic party. From Vermont, therefore, always a

Republican state, he had no political honors to expect; but when she held a Constitutional Convention in 1870, his qualifications for usefulness there were so evident that he was returned as a delegate. At various times he received the Democratic nominations for governor and United States Senator.

In 1880, he was elected President of this Association, and during the same year accepted an appointment as Professor of Medical Jurisprudence in the University of Vermont. A course of lectures given by him on that topic were stenographically reported, and published at Burlington in 1881. They are a clear and masterly treatment of a difficult topic, enlivened by telling anecdotes and enriched by apt illustrations.

In 1881 he was appointed Kent Professor of Law at Yale University. Thenceforward he spent half the year, from the first of January to June, in New Haven, and the rest at Burlington. He gave to the Senior Class in the Academical Department a general view of American law, and lectured in the Law School upon Equity Jurisprudence and International Law.

As a law teacher he showed the same characteristics as those which had given him distinction at the bar. His faculty of clear statement was almost unrivalled. Nor was it simply clear. It was also graceful and persuasive. He not only saw the vital point in a case, but could make any one else see it. Any legal doctrine, when he put it forward in a chain of argument, seemed to shine out with a new light. His arguments and his lectures addressed themselves more particularly to fundamental principles. He was no great friend of case law. He would rather dig down to the foundations on which cases rest—to the foundation of reason rather than of precedent.

Mr. Phelps, for some years before he accepted his chair at Yale, had no regular law office. His clients could find him in his library, and his practice was of the kind which is the best reward to a successful lawyer of middle age—a few important cases in the courts and a few large interests to consult about

and protect. Vermont being part of the Second Circuit, much of his business naturally centered in New York. He often appeared before the United States courts in that city and occasionally in more distant circuits. In the Supreme Court of the United States he was always heard with pleasure and respect. Like most lawyers of eminence, he was oftenest retained by defendants, and the defendant ordinarily has the hardest side of the case. But whether Mr. Phelps had a winning or a losing cause, his argument was always of great assistance to the court. It centered the controversy down to narrow limits. It brushed aside the immaterial circumstances, the petty objections, and struck as with a two-edged sword at the object of attack, however it might have been hidden from the ordinary eye.

In 1885 he was sent by President Cleveland as the Minister of the United States to the Court of St. James. Succeeding James Russell Lowell, he had a difficult place to take in English society, but it was soon found that his grace of manner, his felicity of expression, his sound scholarship and his wide acquaintance with diplomatic history fully justified his selection for this important mission. An address which he delivered on "The Law of the Land," before the Edinburgh Philosophical Institution, in 1886, was universally admired as a discriminating and profound discussion of a theme to which our written constitutions in America have given a new importance.

Later, he was one of the counsel of the United States in the Behring Sea Arbitration proceedings, and argued the cause at Paris before the international tribunal organized to determine it.

He came to New Haven in his usual health, and opened his courses of instruction, both in the law school and the college, in January, 1900, but after a week or two was stricken by an attack of pneumonia. Medical skill served to postpone the end for a number of weeks, but his strong constitution finally

gave way, and the end came peacefully and quietly on March 9, 1900.

He received the degree of Master of Arts from Yale, and that of Doctor of Laws from Middlebury College, the University of Vermont and Harvard. Some years before his death his name was permanently associated with the work of legal education at Yale, by the establishment of the E. J. Phelps Professorship of Law in the Yale Law School, founded by one of his special friends, J. Pierpont Morgan, of New York.

VIRGINIA.

WILLIAM WIRT HENRY.

William Wirt Henry died at his residence, in Richmond, in the early morning hours of Wednesday, December 5, 1900. He was born February 14, 1831, at Red Hill, in the County of Charlotte, the ancestral home of his father, John Henry, in the same house in which his grandfather, Patrick Henry, the orator and statesman of Virginia's Revolutionary era, closed his distinguished career. Mr. Henry was an alumnus of the University of Virginia, and received from that institution, in 1850, the degree of Master of Arts, and many years before his death, his eminent attainments as a professional, literary and historical scholar were most appropriately recognized by the degree of LL.D. conferred upon him by Washington and Lee University and by the College of William and Mary. Mr. Henry practiced his profession in his early life with great success in his native county and the courts of the vicinage. In 1873 he moved to Richmond, and up to the day of his death was recognized among the foremost members of the bar of the state and Federal courts and of the Court of Appeals. He won the patronage and confidence of a large and valuable circle of clients, and no one of his professional brethren enjoyed to a greater extent the affectionate veneration

and esteem of the bar and bench as a lawyer and a man. He practiced his profession upon the highest plane of ethics, with the most conscientious fidelity to his clients and the most loyal reverence for the law. His brethren of the bar delighted to do him honor. They elected him president of the Richmond City Bar Association, and afterwards president of the Virginia State Bar Association. As a representative of the Virginia Bar he was elected vice-president of the American Bar Association. He was a devoted son of Virginia, and at the outset of the war consequent upon the invasion of her soil in 1861, volunteered for her defence as a private in the artillery, in which capacity he rendered patriotic and valuable service.

He never sought political preferment, but after his removal to Richmond his fellow-citizens elected him as their representative in the General Assembly, for two terms in the house and for one term in the senate. His legislative career was one of conspicuous merit, giving promise, had he continued it, of the highest political distinction and honor.

Mr. Henry was a man of refined literary taste and a close and laborious student of history, especially that of his own state from the first settlement at Jamestown through all the subsequent vicissitudes of her social and political fortunes.

For many years he was an active member of the Virginia Historical Society, succeeding the Hon. A. H. H. Stuart as its president, and was also president of the American Historical Society. In many political addresses, within and without his state, upon distinguished occasions, and in many contributions to contemporary newspapers and magazines, he gave to the public the valuable results of his researches into our Colonial and Revolutionary history. But the crowning work of his literary life was with him a labor of love in the publication, in three volumes, of the biography and surviving letters and speeches of his distinguished grandfather—a contribution to Virginia and American history of inestimable value, which has elicited from historical critics at home and abroad the most

flattering commendations, and found a conspicuous place on the shelves of every historical society and student in America.

Mr. Henry was a typical Virginia gentleman, with all that constitutes the dignity of a high manhood, and all the gentleness and serenity of manner in intercourse with the high and with the lowly which carries with it assurance of pleasurable associations and leaves behind it grateful memories. He was a sincere and devout Christian. Uniting himself with the Presbyterian Church in his native county in 1855, he served that church, and, after his removal to Richmond, the Second Presbyterian Church of that city—to which his membership was transferred—in the capacity of a Ruling Elder. As such he frequently appeared in the higher courts of his Church. But his sympathies and labors were not confined to his own denomination. With the broadest Christian charity, he recognized the members of all sister churches as children of one common family, and was ever prompt to unite with them in every good work of benevolence and love.

The recollections of his many conspicuous virtues, and his unblemished career of useful and efficient service to his state, his people and his profession will long survive in the mournful memory of all who were associated with him in life.

WISCONSIN.

JOHN T. FISH.

John T. Fish was born at Lake Pleasant, Hamilton County, New York, November 8, 1834. He came from an old and respected New England family, and inherited powers of mind and force of character and purpose which moved him to the successful career of his life. He worked upon his father's farm until he was twenty years of age, and his attendance at the district schools and one term at the Kingsborough Academy compassed all of his training in the schools during this period. In the fall of 1855 he settled at Lake Geneva, Wis-

consin, where he remained until the fall of 1857, when he removed to McHenry, Illinois. Here, while engaged in agricultural and other labors, he also pursued his legal studies, and was enabled in July, 1859, to obtain admission to the bar in the Circuit Court of Walworth County, Wisconsin. He began the practice of his profession at Sharon, in that county. In August, 1861, he enlisted as a private in Company C, Thirteenth Wisconsin Volunteer Infantry, and, when the organization was perfected, was chosen as its second lieutenant. He remained in the service during the War of the Rebellion and was mustered out December 26, 1865, as captain of his company, when he returned to Sharon and resumed the practice of his profession. Here he remained until 1867, when he left Sharon and went to Burlington, Racine County, Wisconsin. In 1868 he was elected District Attorney, which office he held for two terms. Moving to Racine in 1871, Mr. Fish became associated with Charles H. Lee, under the firm name of Fish & Lee. After seven years Mr. Lee retired from the firm, and Mr. Fish formed another partnership with J. E. Dodge, now one of the associate justices of the Supreme Court of Wisconsin. In May, 1884, his son, Frank M. Fish, became a member of the firm, the style of which was then Fish, Dodge & Fish. In October, 1885, Mr. Fish moved to Milwaukee and entered the firm of Jenkins, Winkler & Smith, where he remained until he was called to the position of General Solicitor of the Chicago, Milwaukee & St. Paul Railway Company in 1887. This position he filled, first with headquarters at Milwaukee and afterwards at Chicago, until February 1, 1894, when he resigned, returned to Milwaukee, and associated himself with Alfred L. Cary and resumed general practice, the style of the firm being Fish & Cary. In May, 1897, the surviving member of the old legal firm of Wells, Brigham & Upham and Fish & Cary formed a new firm under the style of Fish, Cary, Upham & Black, at the head of which firm he remained until the time of his death. While a member of this last firm he had the management of the entire legal business

of the Chicago & North-Western Railway Company within the state of Wisconsin.

In his death this Association and the legal profession have lost a most able and learned member. He was a man of tireless industry, great force, irreproachable integrity and broad attainments. Possessed of a strong physical constitution and of an acute and active mind, he was able easily to perform a great amount of professional work. His natural endowments and habits of unceasing labor enabled him to attain high eminence in a learned profession, and this without the aid of that early training in schools and colleges which is now deemed so essential to professional attainment and success. To those gentlemanly characteristics which were his by nature he added, by wide reading and self-culture, a polish which made him very attractive in all business and social relations. By a powerful analysis he reduced complex propositions to their simplest terms. With a logic that was cogent and a power of statement that was almost marvelous, he marshalled the leading facts and legal principles of his case. In argument to court or jury he was strong and persuasive. His loyalty to his client's cause was almost religious in its intensity. To him no cause that he advocated was ever weak—no client wrong. When the court of last resort had decided adversely his motion for rehearing, he still clung to his convictions. While he bowed to the mandate of the court, he reluctantly yielded to its conclusion. He was exceptional, among his professional brethren, in the possession of a business thrift and enterprise that enabled him to acquire a substantial competence. It is no flattery to say that he was a great lawyer. His absence will be seriously felt in the courts and in professional circles.

DANIEL HARRIS JOHNSON.

Daniel Harris Johnson was born near Kingston, in Ontario, July 27, 1825. His father had served for several years as a sergeant in the British army under Wellington, and was sent

to America in military service during the war of 1812, while his mother was a daughter of an American soldier of the Revolution. Left an orphan when but two years old, he came under the care of his mother's sister, residing at Kemptville, some miles from Kingston. Here, in the freedom of country life, he passed his childhood and youth with little opportunity for school instruction, but so well did he improve such advantages as were open to him, that he became a teacher at the age of seventeen. His active mind and the strong desire to find a wider and better field for the development of his powers impelled him to push out into the then new West.

In 1844 he became a student at Rock River Seminary, in Mt. Morris, Illinois, where he remained during the winter of that year and the summer of 1845. During the next three or four years he was engaged in teaching and working in the mines of Galena.

In 1848 he taught in Prairie du Chien, Wisconsin, and at the same time pursued the study of law and literature. In 1849 he was admitted to the bar by the Circuit Court in Crawford County, Wisconsin, and opened a law office at Prairie Du Chien. In 1850 he undertook the labor of taking the census of the Indians about the head of Lake Superior, and spent some time in that region in this service. He early showed a decided fondness for literature and talent as a writer. After three or four years of moderate success as a lawyer, he became part owner of the Prairie du Chien "Courier," which he edited with vigor until 1856, when he disposed of his interests and resumed the active practice of the law as a member of the firm of Johnson & Bullock.

While residing at Prairie du Chien he also served for some years as assistant register of the United States Land Office there located, and in the fall of 1860 was elected to represent his district in the state Assembly. He took a prominent position in the legislature of 1861, being chairman of the committee on Ways and Means and a member of the committee on Education. The sound judgment and legal ability dis-

played as a legislator led to his appointment in the fall of 1861, by Attorney-General James H. Howe, as Assistant Attorney-General of the state. In this position he proved himself able and efficient.

In May, 1862, he went south as a clerk in the paymaster's department in the Union army, under Major Culver, and remained there until November 1st of that year. On his return from the south he established his home in Milwaukee, where he remained until his death. Here he entered at once upon the active practice of his profession, and soon came to be recognized as a lawyer of unusual ability and learning.

In 1867 he was a member of a committee which undertook the revision of the city charter. In 1869 and in 1870 he was elected to represent the seventh ward of the city in the state Assembly. In 1869 he was chairman of the committee on education, and in 1870 of the judiciary committee of that body, and was very influential in shaping and directing the legislation of both sessions, particularly in securing the passage of important measures affecting the interests of Milwaukee.

In 1873 and 1874, and again in 1882 and 1883, he was a member of the school board of the city and served with signal intelligence and fidelity. In the spring of 1878 he was elected City Attorney for the term of two years, and discharged the duties of that responsible and laborious office with such excellent judgment and professional skill as to enhance greatly his standing at the bar and strengthen his hold upon public confidence.

During the twenty-five years of his practice in Milwaukee, from 1862 to 1887, Judge Johnson was associated with several different lawyers. In the first ten years he was associated with Robert N. Austin (late judge of the Superior Court) and Nathan Pereles in the firm of Austin, Pereles & Johnson, with D. G. Rogers in the firm of Rogers & Johnson, and with H. H. Markham in the firm of Markham & Johnson.

In the spring of 1871 he formed a law partnership with Frederick Rietbrock, under the title of Johnson & Rietbrock,

to which Mr. L. W. Halsey was admitted as junior partner in 1877, and this firm was continued, with a large and increasing practice, until Judge Johnson retired to accept judicial honors.

At the spring election of 1887 he was chosen by the electors of Milwaukee County to fill the office of judge of the Circuit Court for a full term of six years, at the expiration of which he was reelected, without opposition, for a second term. In 1899 he was again elected against strong competition, and entered upon his third term on the first Monday of January of the current year, having passed the age of seventy-four years, of which nearly fifty had been spent in active and assiduous professional and judicial labors.

That Judge Johnson was a man of great learning and of marked ability it is needless to affirm. His prominence and work as a jurist attest the fact. Though not favored with the usual advantages of a liberal education, yet his open and receptive mind, his ready wit, his keen apprehension, his eager pursuit of knowledge, his superior natural endowments, his remarkable, almost phenomenal, memory fully supplied the lack of such advantages. He was an extensive reader, fond of investigation, and his mind was stored with a large fund of knowledge upon most subjects that interest men of intelligence. In the fields of history, science, politics and literature, as well as jurisprudence, he was at home, and his conversation was always interesting and instructive. His tastes were literary, and from time to time he indulged them by contributing to the current literature of the day. His library was large and well selected, but it was kept not for ornament but for practical and steady use. His extraordinary memory, particularly in the recollection of decided cases and of the details of testimony in causes tried before him, was the frequent subject of remark.

As a judge he was able, intelligent and upright in the administration of his office. His personal character in all relations was above reproach. His judicial integrity and his honor as a man and citizen were never questioned. Peculiarly

social and kindly by nature and genial in intercourse, he was always an entertaining companion and by common assent accorded a prominent place in society.

While living in Madison he was married to Electa A. Wright, of that city, a sister of David H. Wright, well known for many years in political and Masonic circles. They made their home a center of kindly hospitality. Both of them were much interested in the Industrial School of Milwaukee, and did much to promote its interests and those of other charitable enterprises. Both were for many years faithful members of St. Paul's Church in this city. A devoted and affectionate husband and father, Judge Johnson was also a public-spirited citizen, a warm-hearted friend, and in all the varied relations of life worthy of the high esteem in which he was held.

JAMES A. MALLORY.

James Augustus Mallory was born at Union Village, Washington County, New York, September 28, 1827, and died at Milwaukee, Wisconsin, November 3, 1899. During his early childhood his parents moved to Water Valley, Erie County, New York, where he attended the district schools and Aurora Academy, from which he was graduated. He began the study of law in Buffalo with Horatio Seymour, Jr., a nephew of Governor Seymour. While yet a student he made the acquaintance of the members of the bar of Western New York, and attracted the attention of Millard Fillmore, who took a deep interest in him, and it was about this time that Mr. Mallory began to manifest his interest in politics, which interest ended only with his death.

In January, 1845, while yet a student, he was appointed Adjutant of the 48th New York Infantry by Governor Silas Wright. He was admitted to practice in the Supreme Court of New York in 1848, and immediately began practice in Buffalo, where he remained until 1851, in which year he went to Milwaukee and opened a law office. He was the same year admitted to the bar of the Supreme Court of Wisconsin.

He was married in 1853 to Miss Mary J. Bates, of Springdale, Connecticut. Mrs. Mallory died in 1861, leaving three children, Jennie M., Lilian, and Rollin B. Mallory, who is now a practicing attorney in Milwaukee. Judge Mallory never married again, devoting his life thereafter to the care of his children and in attending to their education in the most careful manner.

In the Fall of 1854 he was elected District Attorney of Milwaukee County, and was reelected to that office in 1856 and again in 1858. During the time that he held this important office he constantly met, in the trial of cases, such well-known lawyers as the late Senator Matthew H. Carpenter, Judge E. G. Ryan, afterwards Chief Justice of the Supreme Court of Wisconsin, Jonathan E. Arnold, A. R. R. Butler and many others. There were tried, during his incumbency of this office, many murder cases, all of which were prosecuted by Mr. Mallory himself. He was so successful in his conduct of the affairs of that office that when there occurred a vacancy on the bench of the Municipal Court of Milwaukee County, he was, on the 2nd day of March, 1860, appointed judge of that court by Governor Randall. At that time the city of Milwaukee was comparatively young as a city and was passing through its formative stage. There were many questions arising under state statutes and city ordinances of importance to the people, which had never been adjudicated, and which required care, patience and the exercise of rare judgment. In the performance of this portion of his duties Judge Mallory gave evident satisfaction, showing clearly his desire to do his whole duty to the best interest of the people. Judge Mallory was repeatedly elected to this position, generally without opposition, until January, 1890, a period of thirty years, when he retired to enjoy a well-earned rest during his remaining years.

When holding the position of judge he did not give up his interest in affairs of moment to the people, nor in the political party to which he allied himself and in whose principles he

was ever a firm believer. In 1860, after his appointment by the Governor, he was elected a delegate to the Democratic National Convention held at Baltimore, which nominated Stephen A. Douglas for president. He was afterwards elected a delegate to the Democratic National Convention held in 1868, which nominated Horatio Seymour for president. In 1877 he was the nominee of his party for Governor of Wisconsin, but was defeated, by a narrow majority, by the late William E. Smith. Upon his retirement from the bench, he devoted himself to his business interests and to his studies. He was a member of the American Bar Association for many years.

During this time he was an officer of, and took an active interest in, the affairs of the Wisconsin Humane Society, the Municipal League of Milwaukee and other organizations of a public nature.

He always retained the confidence of the people, by reason of his fearless administration of justice, and the firm and open stand that he ever took on all matters of public import. He died honored and respected by the community in which he had lived.

GEORGE E. SUTHERLAND.

George E. Sutherland, judge of the Superior Court of Milwaukee County, Wisconsin, passed from this life at Chicago, on September 13, 1899. He was born at Burlington, New York, September 14, 1843, and, with his parents, came to Wisconsin in 1855. He attended school at Ripon College and subsequently was graduated at Amherst College. His law course was taken at Columbia College law school, from which he was graduated in 1871.

He opened an office at Ripon, Fond du Lac County, and served as city attorney for two years. He then removed to Fond du Lac, and was associated in business with a distinguished member of the bar, David Taylor, later a justice of the

Supreme Court, the firm being Taylor & Sutherland. He served one term in the State Senate, was postmaster for a term in the city of Fond du Lac, and, after Mr. Taylor was elected to the Supreme Bench, practiced law at Fond du Lac a number of years. He came to Milwaukee in 1886 and entered into business with Joshua Stark, and continued to practice at that bar until the Spring of 1897, when he was elected to the bench as judge of the Superior Court of Milwaukee County. He continued in the active discharge of his duties until the 16th day of June, 1899, when he adjourned court for the summer vacation and departed on a trip to Europe. He reached Chicago on his way home, and expected to return to Milwaukee the following day, when he was suddenly taken ill and died.

Although barely sixteen months had passed since George E. Sutherland was invested with judicial honors, yet for this brief period, in patience and in kindness, and with wise judicial discretion, he held the scales of justice with a steady hand, uninfluenced by prejudice, fear or favor, careful only of the law of which he was a zealous student. As a trial judge he was uniformly patient and kind in his treatment both of counsel and witnesses. The judicial qualities of his mind were admirable, and he gave to his work the highest and best of which he was capable. His was a sunny and genial disposition, and he made the way easier and more pleasant for many a struggling young attorney. The highest good was his great ambition in his social, business and church relations.

LIST OF BAR ASSOCIATIONS IN THE UNITED STATES.

NOTE.—This list has been compiled by the Secretary of the American Bar Association from replies to circulars sent out. While pains have been taken to make it as complete as possible, it is probable that some Associations have been omitted. All Associations which are purely Library Associations are intended to be omitted. In some cases the officers for former years are given where officers for 1900 are not known.

The Secretary will be much indebted for information of any omissions and for corrections of the names of officers.

ALABAMA.

NAME.	PRESIDENT.	SECRETARY.
Alabama State Bar Association.	Thomas G. Jones, Montgomery.	Alex. Troy, Montgomery.
BIRMINGHAM BAR ASSO- CIATION.	John London, Birmingham.	L. J. Haley, Jr., Birmingham.

ARIZONA.

The Bar Association of Arizona.	John J. Hawkins, Prescott.	Walter Bennett, Phoenix.
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ARKANSAS.

The Arkansas State Bar Association.	Sterling R. Cockrill, Little Rock.	C. T. Coleman, Little Rock.
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CALIFORNIA.

LOS ANGELES BAR ASSO- CIATION.	John D. Works, Los Angeles.	Charles Wellborn, Los Angeles.
OAKLAND BAR ASSOCIA- TION.	J. H. Smith, Oakland.	Geo. E. DeGolia, Oakland.
SACRAMENTO BAR ASSO- CIATION.	Grove L. Johnson, Sacramento.	S. Luke Howe, Sacramento.

LIST OF BAR ASSOCIATIONS IN THE UNITED STATES. 645

CALIFORNIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
BAR ASSOCIATION OF SAN DIEGO.	Eugene Daney, San Diego.	Lewis R. Works, San Diego.
BAR ASSOCIATION OF SAN FRANCISCO.	Charles W. Slack, San Francisco.	Warren Olney, Jr. San Francisco.

COLORADO.

Colorado Bar Asso- ciation.	Moses Hallett, Denver.	Lucius W. Hoyt, Denver.
DENVER BAR ASSOCIA- TION.	Hugh Butler, Denver.	James M. Lomery, Denver.
GILPIN COUNTY BAR ASSOCIATION.	Clayton F. Becker, Central City.	J. D. Hurd, Central City.
TELLER COUNTY BAR ASSOCIATION.	Charles C. Butler, Cripple Creek.	Henry H. Clark, Cripple Creek.

CONNECTICUT.

State Bar Associa- tion of Connecticut.	Charles E. Perkins, Hartford.	Chas. M. Joslyn, Hartford.
BRIDGEPORT BAR ASSO- CIATION.	Charles S. Canfield, Bridgeport.	Wm. H. Kelsey, Bridgeport.
HARTFORD COUNTY BAR ASSOCIATION.	Charles E. Perkins, Hartford.	William F. Henney, Hartford.

DELAWARE.

KENT COUNTY BAR ASSO- CIATION.	Henry R. Johnson, Dover.	A. M. Daly, Dover.
BAR ASSOCIATION OF NEW CASTLE COUNTY.	Willard Saulsbury, Jr., Wilmington ('99).	Herbert H. Ward, Wilmington ('99).
BAR ASSOCIATION OF SUSSEX COUNTY.	Charles F. Richards, Georgetown.	Albert F. Polk, Georgetown.

DISTRICT OF COLUMBIA.

NAME.	PRESIDENT.	SECRETARY.
Bar Association of the District of Columbia.	Chapin Brown, Washington.	Corcoran Thom, Washington.
FEDERAL BAR ASSOCIATION OF D. C.	John W. Douglass, Washington.	George A. King, Washington.
PATENT LAW ASSOCIATION OF WASHINGTON.	William D. Baldwin, Washington.	Max Georgh, Washington.

FLORIDA.

JACKSONVILLE BAR ASSOCIATION.	A. W. Cockrell, Jr., Jacksonville.	Walter B. Clarkson, Jacksonville.
KEY WEST BAR ASSOCIATION.	L. W. Bethel, Key West.	Julius Otto, Key West.
MARIANNA BAR ASSOCIATION.	W. H. Milton, Marianna.	J. C. McKinnon, Marianna.

GEORGIA.

Georgia Bar Association.	H. Warner Hill, Greenville.	Orville A. Park, Macon.
ATLANTA BAR ASSOCIATION.	Jno. L. Hopkins, Atlanta.	William P. Hill, Atlanta.
BAR ASSOCIATION OF CITY OF MACON.	Washington Dessan, Macon.	Andrew W. Lane, Macon.

ILLINOIS.

Illinois State Bar Association.	Jesse Holdom, Chicago.	James H. Matheny, Springfield.
CHICAGO BAR ASSOCIATION.	John S. Miller, Chicago.	M. Lester Coffeen, Chicago.
CHICAGO LAW INSTITUTE.	Walpole Wood, Chicago.	Alfred E. Barr, Chicago.
STATES ATTORNEYS ASSOCIATION OF ILLINOIS.	A. L. Anderson, Lincoln.	J. H. Franklin, Lacon.

ILLINOIS—Continued.

NAME.	PRESIDENT.	SECRETARY.
THE ILLINOIS COUNTY AND PROBATE JUDGES ASSOCIATION.	Rufus W. Potts, Taylorville.	M. W. Thompson, Danville.
THE LAW CLUB OF THE CITY OF CHICAGO.	Thomas B. Marston, Chicago ('99).	Frederic W. Burlingham, Chicago ('99).
THE PATENT LAW ASSO- CIATION.	William H. Dyrenforth, Chicago.	Samuel E. Hibben, Chicago.

INDIANA.

State Bar Associa- tion of Indiana.	Edwin P. Hammond, Lafayette.	Merrill Moores, Indianapolis.
ADAMS COUNTY BAR AS- SOCIATION.	Robert S. Peterson, Decatur.	Clark J. Lutz, Decatur.
CLAY COUNTY BAR ASSO- CIATION.	George A. Knight, Brazil.	Thomas W. Hutchison, Brazil.
CLINTON COUNTY BAR ASSOCIATION.	Charles G. Guenther, Frankfort.	James T. Hockman, Frankfort.
DANVILLE BAR ASSOCIA- TION.	Thaddeus S. Adams, Danville.	Roscoe C. Pennington, Danville.
DEARBORN COUNTY BAR ASSOCIATION.	Wm. H. Bainbridge, Lawrenceburg.	Warren H. Hauck, Lawrenceburg.
DEKALB COUNTY BAR ASSOCIATION.	Don A. Garwood, Auburn.	Daniel A. Link, Auburn.
EVANSVILLE BAR ASSO- CIATION.	Alexander Gilchrist, Evansville.	Philip W. Frey, Evansville.
ELKHART COUNTY BAR ASSOCIATION.	Charles W. Miller, Goshen.	Louis A. Dennert, Goshen.
GRANT COUNTY BAR AS- SOCIATION.	Henry J. Paulus, Marion.	Marshall Williams, Marion.
HAMILTON COUNTY BAR ASSOCIATION	John F. Neal, Noblesville.	Meade Vestal, Noblesville.

INDIANA—Continued.

NAME.	PRESIDENT.	SECRETARY.
HOWARD COUNTY BAR ASSOCIATION.	Milton Bell, Kokomo.	Warren R. Voorhis, Kokomo.
INDIANAPOLIS BAR ASSOCIATION.	John S. Duncan, Indianapolis.	Ernest R. Keith, Indianapolis.
JAY COUNTY BAR ASSOCIATION.	David T. Taylor, Portland.	George W. Bergman, Portland.
LAKE COUNTY BAR ASSOCIATION.	Armanis F. Knotts, Hammond.	John G. Erdlitz, Whiting.
MADISON COUNTY BAR ASSOCIATION.	Howell D. Thompson, Anderson.	Edward D. Reardon, Anderson.
MARTINSVILLE BAR ASSOCIATION.	James V. Mitchell, Martinsville.	E. Forest Branch, Martinsville.
PUTNAM COUNTY BAR ASSOCIATION.	Delana E. Williamson, Greencastle.	Smith Matson, Greencastle.
SHELBY COUNTY BAR ASSOCIATION.	Harry C. Morrison, Shelbyville.	George H. Meiks, Shelbyville.
STARKE COUNTY BAR ASSOCIATION.	James W. Nichols, Knox.	W. C. Pentecost, Knox.
THIRTY-FIFTH JUDICIAL CIRCUIT BAR ASSOCIATION.	Frank S. Roby, Angola.	Willis Rhoads, Angola.
VERMILLION COUNTY BAR ASSOCIATION.	Martin G. Rhoads, Newport.	F. F. James, Newport.
WABASH BAR ASSOCIATION.	Alvah Taylor, Wabash.	Oliver H. Bogue, Wabash.

IOWA.

Iowa State Bar Association.	J. J. McCarthy, Dubuque.	Saml. S. Wright, Tipton.
BLACKHAWK COUNTY BAR ASSOCIATION.	W. H. McClure, Waterloo.	J. S. Tuthill, Waterloo.

IOWA—Continued.

NAME.	PRESIDENT.	SECRETARY.
BOONE COUNTY BAR ASSOCIATION.	S. R. Dyer, Boone.	J. R. Whitaker, Boone.
CEDAR COUNTY BAR ASSOCIATION.	E. M. Brink, Tipton.	Vacant.
CLARKE COUNTY BAR ASSOCIATION.	Hon. M. L. Temple, Osceola.	H. L. Karr, Osceola.
CLAYTON COUNTY BAR ASSOCIATION.	James O. Crosby, Garnavillo.	B. W. Newberry, Garnavillo.
CLINTON COUNTY BAR ASSOCIATION.	J. S. Darling, Clinton.	J. W. Ellis, Clinton.
DECATUR COUNTY BAR ASSOCIATION.	R. L. Parish, Leon.	Vacant.
DUBUQUE COUNTY BAR ASSOCIATION.	J. R. Lindsay, Dubuque.	S. B. Lattner, Dubuque.
FAIRFIELD LAW LIBRARY ASSOCIATION.	Robert F. Ratcliff, Fairfield.	E. F. Simmons, Fairfield.
HAMILTON COUNTY BAR ASSOCIATION.	N. B. Hyatt, Webster City.	G. F. Tucker, Webster City.
JOHNSON COUNTY BAR ASSOCIATION.	Milton Remley, Iowa City.	R. P. Howell, Iowa City.
JONES COUNTY BAR ASSOCIATION.	J. S. Stacy, Anamosa,	W. I. Chamberlain, Wyoming.
KEOKUK COUNTY BAR ASSOCIATION.	H. H. Timble, Keokuk.	W. J. Roberts, Keokuk.
KOSSUTH COUNTY BAR ASSOCIATION.	E. V. Swetting, Algona.	Charles A. Cohenour, Algona.
LUCAS COUNTY BAR ASSOCIATION.	T. M. Stuart, Chariton.	L. B. Bartholomew, Chariton.
MONONA COUNTY BAR ASSOCIATION.	G. W. McMillan, Onawa.	Geo. A. Oliver, Onawa.

IOWA—Continued.

NAME.	PRESIDENT.	SECRETARY.
MONROE COUNTY BAR ASSOCIATION.	T. B. Perry, Albia.	D. M. Anderson, Albia.
MUSCATINE COUNTY BAR ASSOCIATION.	J. Carskaddan, Muscatine.	William Hoffman, Muscatine.
POLK COUNTY BAR ASSOCIATION.	Geo. H. Carr, Des Moines.	J. B. Ryan, Des Moines.
SCOTT COUNTY BAR ASSOCIATION.	W. M. Chamberlain, Davenport.	R. C. Ficke, Davenport.
SHELBY COUNTY BAR ASSOCIATION.	Edmund Lockwood, Harlan.	Thos. H. Smith, Harlan.
SIoux CITY BAR ASSOCIATION.	Craig L. Wright, Sioux City.	J. Herbert Quick, Sioux City.
SIoux COUNTY BAR ASSOCIATION.	Wm. Hutchinson, Orange City.	G. W. Pelts, Orange City.
UNION COUNTY BAR ASSOCIATION.	D. W. Higbee, Creston.	Vacant.
VAN BUREN COUNTY BAR ASSOCIATION.	S. E. Irish, Keosauqua.	H. B. Sloan, Keosauqua.
WAPELLO COUNTY BAR ASSOCIATION.	E. E. McElroy, Ottumwa.	Chas. Hall, Ottumwa.

KANSAS.

Bar Association of the State of Kansas.	Sam Kimble, Manhattan.	D. A. Valentine, Topeka.
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KENTUCKY.

Kentucky Bar Association.	Malcolm Yeamans, Henderson.	J. G. Poore, Frankfort.
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LOUISIANA.

Louisiana Bar Association.	Henry P. Dart, New Orleans.	W. S. Benedict, New Orleans.
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MAINE.

NAME.	PRESIDENT.	SECRETARY.
Maine State Bar Association.	Wallace H. White, Lewiston.	Leslie C. Cornish, Augusta.
CUMBERLAND BAR ASSOCIATION.	Henry B. Cleaves, Portland.	John F. A. Merrill, Portland.
FRANKLIN COUNTY BAR ASSOCIATION.	Henry L. Whitcomb, Farmington.	B. M. Small, Farmington.
KENNEBEC BAR ASSOCIATION.	C. F. Johnson, Waterville.	C. L. Andrews, Augusta.
OXFORD BAR ASSOCIATION.	Vacant.	C. F. Whitman, S. Paris.
PENOBSCOT BAR ASSOCIATION.	Albert W. Paine, Bangor.	F. H. Appleton, Bangor.
SOMERSET BAR AND LAW LIBRARY ASSOCIATION.	(Oldest member present).	N. W. Brainard, Skowhegan.
YORK BAR ASSOCIATION.	Horace H. Burbank, Saco.	Gorham N. Weymouth, Biddeford.

MARYLAND.

Maryland State Bar Association.	Stevenson A. Williams, Bel Air.	Conway W. Sams, Baltimore.
BAR ASSOCIATION OF ALLEGANY COUNTY.	Robert W. McMichael, Cumberland ('99).	David W. Sloan, Cumberland ('99).
BAR ASSOCIATION OF BALTIMORE CITY.	Daniel M. Thomas, Baltimore.	James W. Bowers, Jr., Baltimore.
BAR ASSOCIATION OF GARRETT COUNTY.	Thos. J. Peddicord, Oakland ('99).	Julius C. Renninger, Oakland ('99).
BAR ASSOCIATION OF MONTGOMERY COUNTY.	Hattersly W. Talbott, Rockville.	Philip D. Laird, Rockville.
BAR ASSOCIATION OF WASHINGTON COUNTY.	Alexander Neill, Hagerstown.	Martin L. Keedy, Hagerstown.

MASSACHUSETTS.

NAME.	PRESIDENT.	SECRETARY.
BAR ASSOCIATION OF THE CITY OF BOSTON.	John C. Gray, Boston.	William F. Wharton, Boston.
BERKSHIRE BAR ASSO- CIATION.	Henry W. Taft, Pittsfield.	Edward T. Slocum, Pittsfield.
ESSEX BAR ASSOCIATION.	Henry P. Moulton, Salem.	Alden P. White, Salem.
FALL RIVER BAR ASSO- CIATION	Milton Reed, Fall River.	Arthur S. Phillips, Fall River.
FRANKLIN COUNTY BAR ASSOCIATION.	Samuel O. Lamb, Greenfield.	Samuel D. Conant, Greenfield.
HAMPDEN BAR ASSO- CIATION.	Charles L. Gardner, Springfield.	Robert O. Morris, Springfield.
HAMPSHIRE BAR ASSO- CIATION.	Timothy G. Spaulding, Northampton.	Wm. H. Clapp, Northampton.
LAWRENCE BAR ASSOCI- ATION.	Chas. A. DeCoursey, Lawrence.	Wm. F. Moyus, Lawrence.
LYNN BAR ASSOCIATION.	William H. Niles, Lynn.	Charles Leighton, Lynn.
BAR ASSOCIATION OF THE COUNTY OF MIDDLESEX.	S. K. Hamilton, Boston.	Russell Bradford, Boston.
NEW BEDFORD BAR ASSOCIATION.	Charles W. Clifford, New Bedford.	Frank A. Milliken, New Bedford.
NEWBURYPORT BAR AS- SOCIATION.	Vacant.	David P. Page, Newburyport.
BAR ASSOCIATION OF NORFOLK COUNTY.	Frederick D. Ely, Needham ('99).	George K. Clarke, Needham ('99).
PLYMOUTH COUNTY BAR ASSOCIATION.	B. W. Harris, E. Bridgewater.	Arthur Lord, Plymouth.
TAUNTON BAR ASSOCIA- TION.	Henry J. Fuller, Taunton.	Carleton F. Sanford, Taunton.
WORCESTER COUNTY BAR ASSOCIATION.	F. P. Goulding, Worcester.	Webster Thayer, Worcester.

MICHIGAN

NAME.	PRESIDENT.	SECRETARY.
Michigan State Bar Association.	George W. Weadock, Saginaw.	Andrew J. Lynd, Saginaw.
BAY COUNTY BAR ASSOCIATION.	Edgar A. Cooley, Ann Arbor.	Frank S. Pratt, Bay City.
DETROIT BAR ASSOCIATION.	John C. Donelly, Detroit.	William J. Gray, Detroit.
HOUGHTON COUNTY BAR ASSOCIATION.	Thos. L. Chadbourne, Houghton.	William G. Rice, Houghton.
IONIA COUNTY BAR ASSOCIATION.	Allen B. Morse, Ionia.	Wm. K. Clute, Ionia.
LENAWEE COUNTY BAR ASSOCIATION.	Clement E. Weaver, Adrian.	Walter S. Westerman, Adrian.
SAGINAW COUNTY BAR ASSOCIATION.	George W. Weadock, Saginaw.	Henry E. Naegeley, Saginaw.

MINNESOTA.

Minnesota State Bar Association.	M. E. Clapp, St. Paul ('99).	Carl Taylor, St. Paul ('99).
BLUE EARTH COUNTY BAR ASSOCIATION.	A. R. Pfair, Mankota.	Jean A. Flittie, Mankota.
MINNEAPOLIS BAR ASSOCIATION.	William H. Norris, Minneapolis.	John T. Baxter, Minneapolis.
RAMSEY COUNTY BAR ASSOCIATION.	Frederick G. Ingersoll, St. Paul.	Arthur J. Stobbart, St. Paul.
RICE COUNTY BAR ASSOCIATION.	Geo. W. Batchelder, Faribault ('99).	A. D. Keyes, Faribault ('99).
SEVENTH JUDICIAL DISTRICT BAR ASSOCIATION.	Alphonso Barto, St. Cloud ('99).	Jas. R. Bennett, Jr., St. Cloud ('99).
STEARNS COUNTY BAR ASSOCIATION.	George H. Reynolds, St. Cloud ('99).	J. A. Martin, St. Cloud ('99).

MINNESOTA—Continued.

NAME.	PRESIDENT.	SECRETARY.
WASHINGTON COUNTY BAR ASSOCIATION.	F. T. Wilson, ('98), Stillwater.	A. E. Doe, ('98), Stillwater.
WINONA COUNTY BAR ASSOCIATION.	Vacant.	Wm. B. Anderson, Winona.

MISSISSIPPI.

ABERDEEN BAR ASSO- CIATION.	E. O. Sykes, Aberdeen.	Q. O. Eckford, Aberdeen.
ADAMS COUNTY BAR AS- SOCIATION.	Wm. C. Martin, Natchez.	James A. Clinton, Natchez.
COLUMBUS BAR ASSOCIA- TION.	J. A. Orr, Columbus.	Jas. T. Harrison, Columbus.
YAZOO COUNTY BAR AS- SOCIATION.	Robert Bowman, Yazoo City.	C. H. Williams, Yazoo City.

MISSOURI.

Missouri Bar Asso- ciation.	J. J. Russell, Charleston.	C. F. Gallenkamp, Union.
KANSAS CITY BAR ASSO- CIATION.	Clarence S. Palmer, Kansas City.	Porter B. Godard, Kansas City.
BAR ASSOCIATION OF ST. LOUIS.	James Hagerman, St. Louis.	Jas. Avery Webb, St. Louis.

MONTANA.

Montana Bar Asso- ciation.	Frank E. Corbett, Butte.	Edward C. Russel, Helena.
CASCADE COUNTY BAR ASSOCIATION.	T. E. Brady, Great Falls.	H. H. Ewing, Great Falls.
FLATHEAD COUNTY BAR ASSOCIATION.	G. H. Grubb, Kalispell.	D. F. Smith, Kalispell.
HELENA BAR ASSOCIA- TION.	F. P. Sterling, Helena.	Thos. J. Walsh, Helena.

NEBRASKA.

NAME.	PRESIDENT.	SECRETARY.
Nebraska State Bar Association.	E. Wakeley, Omaha.	Roscoe Pound, Lincoln.
ADAMS COUNTY BAR ASSOCIATION.	John M. Ragan, Hastings.	J. S. Logan, Hastings.
LANCASTER COUNTY BAR ASSOCIATION.	H. H. Wilson, Lincoln.	S. L. Geisthardt, Lincoln.
OMAHA BAR ASSOCIATION.	James H. McIntosh, Omaha.	O. P. M. Brown, Omaha.

NEW HAMPSHIRE.

Bar Association of the State of New Hampshire.	George B. French, Nashua.	Arthur H. Chase, Concord.
BELKNAP COUNTY BAR ASSOCIATION.	Charles C. Rogers, Tilton.	E. P. Thompson, Laconia.
CARROLL COUNTY BAR ASSOCIATION.	Frank Weeks, Centerville.	A. M. Rumery, Ossipee.
GRAFTON AND COÖS BAR ASSOCIATION.	Chester B. Jordan, Lancaster.	Geo. F. Rich, Berlin.
STRAFFORD COUNTY BAR ASSOCIATION.	Daniel Hall, Dover.	Walter W. Scott, Dover.

NEW JERSEY.

New Jersey State Bar Association.	Eugene Stevenson, Paterson.	Albert C. Wall, Jersey City.
ATLANTIC COUNTY BAR ASSOCIATION.	Burrows C. Godfrey, Atlantic City.	Wm. M. Cleveland, Atlantic City.
BERGEN COUNTY BAR ASSOCIATION.	James M. Van Valen, Hackensack.	Abram DeBaun, Hackensack.
CAMDEN COUNTY BAR ASSOCIATION.	Benjamin D. Shreve, Camden.	John Meirs, Camden.

NEW JERSEY—Continued.

NAME.	PRESIDENT.	SECRETARY.
CUMBERLAND COUNTY BAR ASSOCIATION.	Thomas W. Trenchard, Bridgeton.	George Hampton, Bridgeton.
ESSEX COUNTY BAR ASSOCIATION.	William B. Guild, Newark.	Charles M. Myers, Newark.
BAR ASSOCIATION OF HUDSON COUNTY.	James P. Vredenburg, Jersey City.	George I. McEwen, Jersey City.
MONMOUTH BAR ASSOCIATION.	Robt. Allen, Jr., Red Bank.	James Steen, Eatontown.
BAR ASSOCIATION OF PASSAIC COUNTY.	George S. Hilton, Paterson.	John R. Beam, Paterson.
SOMERSET COUNTY BAR ASSOCIATION.	Charles A. Reed, Plainfield.	Nelson Y. Dungan, Somerville.

NEW MEXICO TERRITORY.

New Mexico Bar Association.	A. A. Freeman, Carlsbad.	Edward L. Bartlett, Santa Fé.
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NEW YORK.

New York State Bar Association.	Francis M. Finch, Ithaca.	Frederick E. Wadhams, Albany.
ALBANY COUNTY BAR ASSOCIATION.	William P. Rudd, Albany.	Jacob C. E. Scott, Albany.
AMSTERDAM BAR ASSOCIATION.	Charles S. Nisbet, V.P., Amsterdam.	Lawrence A. Serviss, Amsterdam.
BROOKLYN BAR ASSOCIATION.	H. C. M. Ingraham, Brooklyn.	Henry S. Rasquin, Brooklyn.
ERIE COUNTY BAR ASSOCIATION.	Spencer Clinton, Buffalo.	John W. Fisher, Buffalo.
ASS'N OF THE BAR OF THE CITY OF NEW YORK.	John E. Parsons, New York.	B. Aymar Sands, New York.
BAR ASSOCIATION OF THE CITY OF GLOVERSVILLE.	Jerome Egelston, Gloversville.	James H. Drury, Gloversville.

NEW YORK—Continued.

NAME.	PRESIDENT.	SECRETARY.
ONONDAGA COUNTY BAR ASSOCIATION.	W. P. Goodelle, Syracuse.	Edward H. Burdick, Syracuse.
QUEENS COUNTY BAR ASSOCIATION.	John Lyon, Rockville Centre.	Frederick N. Smith, Long Island City.
ROCHESTER BAR ASSOCIATION.	Walter S. Hubbell, Rochester.	Wm. T. Plumb, Rochester.
ROCKLAND COUNTY BAR ASSOCIATION.	Abram A. Demorest, Nyack.	George A. Wyre, Nyack.

NORTH CAROLINA.

North Carolina Bar Association.	Charles M. Stedman, Greensboro.	J. Crawford Biggs, Durham.
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NORTH DAKOTA.

State Bar Association of North Dakota.	Seth Newman, Fargo.	W. J. Burke, Bathgate.
GRAND FORKS COUNTY BAR ASSOCIATION.	J. H. Bosard, Grand Forks.	Tracy R. Bangs, Grand Forks.

OHIO.

Ohio State Bar Association.	R. D. Marshall, Dayton.	H. A. Mykrantz, Ashland.
ASHLAND COUNTY BAR ASSOCIATION.	R. M. Campbell, Ashland.	W. T. Dover, Ashland.
BUTLER COUNTY BAR ASSOCIATION.	Allen Andrews, Hamilton.	Robert N. Shotts, Hamilton.
CARROLL COUNTY BAR ASSOCIATION.	Thomas Hayes, Carrollton.	U. C. DeFord, Carrollton.
CINCINNATI BAR ASSOCIATION.	John R. Sayler, Cincinnati.	Nath'l H. Davis, Cincinnati.
CLEVELAND BAR ASSOCIATION.	E. J. Blandin, Cleveland.	T. H. Bushnell, Cleveland.

OHIO—Continued.

NAME.	PRESIDENT.	SECRETARY.
CRAWFORD COUNTY BAR ASSOCIATION.	Franklin Adams, Bucyrus.	Wallace L. Monnett, Bucyrus.
DARKE COUNTY BAR ASSOCIATION.	C. M. Anderson, Greenville.	S. V. Hartman, Greenville.
FRANKLIN COUNTY BAR ASSOCIATION.	Charles E. Barr, Columbus.	Campbell M. Voorhees, Columbus.
HENRY COUNTY BAR ASSOCIATION.	Martin Knapp, Napoleon.	J. P. Ragan, Napoleon.
JEFFERSON COUNTY BAR ASSOCIATION.	Dio. Rogers, Steubenville.	W. C. Taylor, Steubenville.
KNOX COUNTY BAR ASSOCIATION.	John Adams, Mt. Vernon.	W. L. Cary, Jr., Mt. Vernon.
LICKING COUNTY BAR ASSOCIATION.	J. M. Dennis, Newark.	Chas. W. Seward, Newark.
LORAIN COUNTY BAR ASSOCIATION.	Chas. W. Johnson, Elyria.	H. W. Ingersoll, Elyria.
MAHONING COUNTY BAR ASSOCIATION.	Thos. W. Sanderson, Youngstown.	M. C. McNabb, Youngstown.
MARION COUNTY BAR ASSOCIATION.	W. Z. Davis, Marion.	W. E. Scofield, Marion.
MIAMI COUNTY BAR ASSOCIATION.	Thos. B. Kyle, Troy.	S. H. McPherson, Troy.
MONTGOMERY COUNTY BAR ASSOCIATION.	R. D. Marshall, Dayton.	O. F. Bauman, Dayton.
PUTNAM COUNTY BAR ASSOCIATION.	Jas. T. Lentzig, Ottawa.	D. C. Long, Ottawa.
RICHLAND COUNTY BAR ASSOCIATION.	S. G. Cummings, Mansfield.	J. E. LaDow, Mansfield.
ROSS COUNTY BAR ASSOCIATION.	Reuben R. Freeman, Chillicothe.	Frank Hinton, Chillicothe.

OHIO—Continued.

NAME.	PRESIDENT.	SECRETARY.
SANDUSKY COUNTY BAR ASSOCIATION.	T. P. Finefrock, Fremont.	Basil Meek, Fremont.
SPRINGFIELD LAW AND LAW LIBRARY ASS'N.	G. C. Rawlins, Springfield.	D. Z. Gardner, Springfield.
SOUTHERN COLUMBIANA COUNTY BAR ASS'N.	J. J. Purinton, East Liverpool.	Wm. M. Hill, East Liverpool.
SUMMIT COUNTY BAR ASSOCIATION.	C. E. Humphrey, Akron.	H. M. Hagelbarger, Akron.
TOLEDO BAR ASSOCIATION.	L. H. Pike, Toledo.	H. W. Frazer, Toledo.
VINTON COUNTY BAR ASSOCIATION.	J. M. McGillivray, McArthur.	Henry W. Coultrap, McArthur.
WARREN COUNTY BAR ASSOCIATION.	John E. Smith, Lebanon.	George W. Stanley, Lebanon.

OREGON.

Oregon Bar Association.	C. E. S. Wood, Portland.	A. F. Flegel, Portland.
CLACKAMAS COUNTY BAR ASSOCIATION.	Gordon E. Hayes, Oregon City.	W. S. McRen, Oregon City.
MARION COUNTY BAR ASSOCIATION.	B. F. Bonham, Salem.	A. O. Condit, Salem.

PENNSYLVANIA.

Pennsylvania Bar Association.	William Scott, Pittsburg.	Vacant.
ADAMS COUNTY BAR ASSOCIATION.	David McConaughy, Gettysburg.	W. Clarence Sheely, Gettysburg.
ALLEGHENY COUNTY BAR ASSOCIATION.	Robert S. Frazer, Pittsburg.	Albert York Smith, Pittsburg.
LAW ASSOCIATION OF BEAVER COUNTY	Alfred S. Moore, Beaver.	Junius W. McBride, Beaver.

PENNSYLVANIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
BERKS COUNTY BAR ASSOCIATION.	Jacob S. Livingood, Reading.	Thomas K. Leidy, Reading.
BLAIR COUNTY BAR ASSOCIATION.	Adie H. Stevens, ('98), Tyrone.	Henry A. McFadden, ('98), Hollidaysburg.
BRADFORD COUNTY BAR ASSOCIATION.	Rodney A. Mercur, Towanda.	Jas. R. Leahy, Towanda.
BUCKS COUNTY BAR ASSOCIATION.	Nathan C. James, Doylestown.	Harvey S. Kiser, Doylestown.
BUTLER COUNTY BAR ASSOCIATION.	L. Z. Mitchell, Butler.	J. D. Marshall, Butler.
CAMBRIA BAR ASSOCIATION.	W. Horace Rose, Johnstown.	H. H. Myers, Ebensburg.
CENTRE COUNTY BAR ASSOCIATION.	John G. Love, Bellefonte.	M. I. Gardner, Bellefonte.
CHESTER COUNTY LAW AND MISCELLANEOUS LIBRARY ASSOCIATION.	Wm. M. Hayes, West Chester.	Thomas Lack, West Chester.
CLARION BAR ASSOCIATION.	B. J. Reid, Clarion.	W. D. Burns, Clarion.
CLEARFIELD COUNTY LAW ASSOCIATION.	Cyrus Gordon, Clearfield.	Benjamin F. Chase, Clearfield.
COLUMBIA COUNTY BAR ASSOCIATION.	John G. Freeze, Bloomsburg.	George E. Elwell, Bloomsburg.
DAUPHIN COUNTY BAR ASSOCIATION.	Robert Snodgrass, Harrisburg.	William M. Hargest, Harrisburg.
ERIE COUNTY LAW ASSOCIATION.	George A. Allen, Erie.	Henry E. Fish, Erie.
FAYETTE COUNTY BAR ASSOCIATION.	Robert F. Hopwood, Uniontown.	Thos. R. Wakefield, Uniontown.
FOREST BAR ASSOCIATION.	Samuel D. Irwin, Tionesta.	S. C. Calhoun, Tionesta.

PENNSYLVANIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
HUNTINGDON BAR ASSOCIATION.	W. McK. Williamson, Huntingdon.	Jas. S. Woods, Huntingdon.
INDIANA COUNTY LAW ASSOCIATION.	J. N. Banks, Indiana.	John N. Hill, Indiana.
JEFFERSON COUNTY BAR ASSOCIATION.	George A. Jenks, Brookville.	N. L. Strong, Brookville.
LACKAWANNA LAW AND LIBRARY ASSOCIATION.	James H. Torrey, Scranton.	Herman Osthaus, Scranton.
LANCASTER BAR ASSOCIATION.	H. M. North, Columbia.	John W. Appel, Lancaster.
LAWRENCE COUNTY BAR ASSOCIATION.	H. K. Gregory, Newcastle.	D. W. Keast, Newcastle.
LEHIGH COUNTY BAR ASSOCIATION.	Arthur G. De Walt, Allentown.	Frank Jacobs, Allentown.
LYCOMING LAW ASSOCIATION.	Henry C. McCormick, Williamsport.	Addison Candor, Williamsport.
McKEAN COUNTY BAR ASSOCIATION.	Byron D. Hamlin, Smethport.	J. M. McClure, Bradford.
MONTGOMERY COUNTY BAR ASSOCIATION.	James Boyd, Norristown.	Wm. F. Dannehower, Norristown.
NORTHAMPTON COUNTY BAR ASSOCIATION.	P. C. Evans, Easton.	A. C. LaBarre, Easton.
NORTHUMBERLAND COUNTY LAW ASSOCIATION.	Wm. H. M. Oram, Shamokin.	Harry S. Knight, Sunbury.
LAW ASSOCIATION OF PHILADELPHIA.	Samuel Dickson, Philadelphia.	William C. Ferguson, Philadelphia.
LAWYERS' CLUB OF PHILADELPHIA.	Francis Shunk Brown, Philadelphia.	Emanuel Furth, Philadelphia.
SCHUYLKILL COUNTY BAR ASSOCIATION.	Vacant.	Chas. E. Breckens, Pottsville.

PENNSYLVANIA—Continued.

NAME.	PRESIDENT.	SECRETARY.
SNYDER COUNTY BAR ASSOCIATION.	A. W. Porter, Selin's Grove.	Jay G. Weiser, Middleburg.
SUSQUEHANNA COUNTY LEGAL ASSOCIATION.	William M. Post, Montrose.	F. I. Lott, Montrose.
TIOGA COUNTY BAR ASSOCIATION.	S. F. Channell, Wellsboro.	Robert K. Young, Wellsboro.
WARREN COUNTY BAR ASSOCIATION.	William Schnur, Warren.	E. H. Beshlin, Warren.
WAYNE BAR ASSOCIATION.	Hen. Wilson, Honesdale.	R. M. Stocker, Honesdale.
WAYNESBURG LAW ASSOCIATION.	J. B. Donley, Waynesburg.	James J. Purman, Waynesburg.
WESTMORELAND LAW ASSOCIATION.	D. S. Atkinson, Greensburg.	J. E. B. Cunningham, Greensburg.
WILKES-BARRE LAW AND LIBRARY ASSOCIATION.	Alex. Farnham, Wilkes-Barre.	Joseph D. Coons, Wilkes-Barre.
WYOMING COUNTY BAR ASSOCIATION.	W. E. Little, Tunkhannock.	E. J. Jorden, Tunkhannock.

RHODE ISLAND.

The Rhode Island Bar Association.	Francis Colwell, Providence.	Wm. A. Morgan, Providence.
PROVIDENCE BAR CLUB.	Dexter B. Potter, Providence.	Lorin M. Cook, Providence.

SOUTH CAROLINA.

South Carolina Bar Association.	B. F. Whitner, Anderson ('99).	John P. Thomas, Jr., Columbia ('99).
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SOUTH DAKOTA.

South Dakota Bar Association.	Coe I. Crawford, Huron.	Jno. H. Voorhees, Sioux Falls.
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SOUTH DAKOTA—Continued.

NAME.	PRESIDENT.	SECRETARY.
BEADLE COUNTY BAR ASSOCIATION.	A. W. Burt, Huron.	(Appointed at meetings)
BROOKINGS COUNTY BAR ASSOCIATION.	George A. Mathews, Brookings ('99).	C. P. Cheever, Brookings (99).
BROWN COUNTY BAR ASSOCIATION.	J. H. Hauser, Aberdeen.	C. M. Stevens. Aberdeen.
CLARK COUNTY BAR ASSOCIATION.	S. H. Elrod. Clark.	Wm. McGaan, Clark.
CODDINGTON COUNTY BAR ASSOCIATION.	C. X. Seward, Watertown.	R. T. Warner, Watertown.
DAVISON COUNTY BAR ASSOCIATION.	J. L. Hannett, Mitchell.	Herbert E. Hitchcock, Mitchell.
MINNEHAHA COUNTY BAR ASSOCIATION.	T. B. McMartin, Sioux Falls.	Jno. H. Voorhees, Sioux Falls.

TENNESSEE.

Bar Association of Tennessee.	George Gillham, Memphis.	R. Lee Bartels, Memphis.
CHATTANOOGA BAR AND LAW LIBRARY ASSOCIATION.	R. L. Bright, Chattanooga.	A. W. Gaines, Chattanooga.
JUNIOR BAR ASSOCIATION OF LYNCHBURG.	Ray H. Parks, Lynchburg.	J. Eggleston Roby, Lynchburg.
LEWISBURG BAR ASSOCIATION.	J. L. Marshall, Lewisburg.	A. V. McLane, Lewisburg.
MEMPHIS BAR AND LAW LIBRARY ASSOCIATION.	Wm. M. Randolph, Memphis.	E. A. Cole, Memphis.
MURFREESBORO BAR ASSOCIATION.	Fletcher R. Burrus, Murfreesboro.	Jesse W. Sparks, Murfreesboro.
WINCHESTER BAR ASSOCIATION.	W. H. Brannan, Winchester.	Arthur Crownover, Winchester.

TEXAS.

NAME.	PRESIDENT.	SECRETARY.
Texas Bar Association.	M. A. Spoonts, Fort Worth.	Chas. S. Morse, Austin.
AUSTIN BAR ASSOCIATION.	John Dowell, Austin.	J. W. Maxwell, Austin.
DALLAS BAR ASSOCIATION.	W. B. Gano, Dallas ('99).	Wendell Spence, Dallas ('99).

UTAH.

State Bar Association of Utah.	Chas. S. Varian, Salt Lake City.	Cleason S. Kinney, Salt Lake City.
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VERMONT.

Vermont Bar Association.	Jonathan Ross, St. Johnsbury.	Geo. W. Wing, Montpelier.
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VIRGINIA.

Virginia State Bar Association.	Lunsford L. Lewis, Richmond.	Eugene C. Massie, Richmond.
BAR ASSOCIATION OF THE CITY OF RICHMOND.	G. Carlton Jackson, Richmond.	Hunsdon Cary, Richmond.

WASHINGTON.

Washington State Bar Association.	Samuel R. Stern, Spokane.	Nathan S. Porter, Olympia.
CHEHALIS COUNTY BAR ASSOCIATION.	C. W. Hodgson, V. P., Montesano.	J. A. Hutcheson, Chehalis.
KING COUNTY BAR ASSOCIATION.	Orange Jacobs, Seattle.	John Arthur, Seattle.
PIERCE COUNTY BAR ASSOCIATION.	T. L. Stiles, Tacoma.	J. M. Harris, Sec. <i>pro tem</i> . Tacoma.
SKAGIT COUNTY BAR ASSOCIATION.	E. C. Million, Mt. Vernon.	E. P. Barker, Mt. Vernon.
SPOKANE COUNTY BAR ASSOCIATION.	Geo. W. Belt, Spokane.	Leonard B. Cornell, Spokane.

WASHINGTON—Continued.

NAME.	PRESIDENT.	SECRETARY.
THURSTON COUNTY BAR ASSOCIATION.	Nathan S. Porter, Olympia.	Preston M. Troy, Olympia.
WHATCOM COUNTY BAR ASSOCIATION.	Albert S. Cole, New Whatcom.	Lin H. Hadley, New Whatcom.

WEST VIRGINIA.

West Virginia Bar Association.	L. J. Williams, Lewisburg.	John W. Davis, Clarksburg.
MARION COUNTY BAR ASSOCIATION.	W. S. Haymond, Fairmount.	W. H. Conaway, Fairmount.
MASON COUNTY BAR ASSOCIATION.	W. R. Gunn, Point Pleasant.	E. J. Somerville, Point Pleasant.
OHIO COUNTY BAR ASSOCIATION.	Geo. B. Caldwell, Wheeling.	James W. Ewing, Wheeling.

WISCONSIN.

State Bar Association of Wisconsin.	Joshua Stark, Milwaukee.	Cornelius I. Haring, Milwaukee.
DANE COUNTY LEGAL ASSOCIATION.	J. H. Carpenter, Madison.	John A. Aylward, Madison.
EAU CLAIRE COUNTY BAR ASSOCIATION.	T. F. Frauley, Eau Claire.	F. A. Farr, Eau Claire.
LA CROSSE BAR ASSOCIATION.	Joseph W. Losey, La Crosse.	John Brindley, La Crosse.
MILWAUKEE BAR ASSOCIATION.	Frederick C. Winkler, Milwaukee.	Cornelius I. Haring, Milwaukee.
ROCK COUNTY BAR ASSOCIATION.	William Smith, Janesville ('99).	Emmett D. McGowan, Janesville ('99).
WAUPACA COUNTY BAR ASSOCIATION.	E. L. Browne, Waupaca.	Irving P. Lord, Waupaca.
WINNEBAGO COUNTY BAR ASSOCIATION.	Geo. Gary, Oshkosh.	A. H. Goss, Oshkosh.

MEMORANDUM OF SUBJECTS REFERRED TO COMMITTEES.

STANDING COMMITTEES.

Jurisprudence and Law Reform.

Fellow Servants. (See 1896 Report, page 40.)

Slipshod Legislation. (See 1896 Report, pages 41 and 42; 1897 Report, page 67.)

Anti-trust Legislation. (See 1897 Report, page 72; 1900 Report, page 11.)

Revision of U. S. Statutes. (See 1899 Report, pages 84, 85.)

Commercial Law.

Further investigation of Bankrupt Law and advocating certain Amendments. (See pages 12 to 27, 358.)

International Law.

Further advocating Peace Convention of the Hague Conference. (See pages 27, 28, 372.)

Obituaries.

To report names of Deceased Members. (See 1898 Report, page 20; 1900 Report, pages 28, 374.)

Patent, Trade Mark and Copyright Law.

To secure amendments to Trade Mark Laws. (See pages 28, 29, 374.)

Uniformity of Decisions. (See page 43.)

SPECIAL COMMITTEES.

On Classification of the Law.

No Report in 1898, 1899 or 1900. (See page 31.)

On Indian Legislation.

Further advocating remedial Legislation. (See pages 31, 32 and 381.)

On Uniform State Laws.

To secure appointment by states of Commissioners on Uniform State Laws.

To advocate certain approved forms of Acts. (See pages 32 to 34, 395.)

On Federal Code of Criminal Procedure.

No Report in 1899 or 1900. (See page 34.)

On Penal Laws and Prison Discipline.

Committee reported and was continued. (See pages 34 and 400.)

To prepare resolution about representation at International Prison Congress. (See page 34.)

On Federal Courts.

Committee continued and directed to co-operate with the Commission appointed by Congress as to organization of Federal Courts and increase of salary of Federal Judges. (See pages 35, 36.)

On Appeals from Orders Appointing Receivers.

Report recommitted and Committee to co-operate with Federal Court Committee. (See pages 37 to 40.)

On Industrial Property and International Negotiation.

Committee reported and was continued. (See pages 29 and 410.)

On Title to Real Estate.

To urge remedial Legislation. (See pages 29 and 411.)

ANNUAL ADDRESSES.

YEAR.	NAME.	SUBJECT.
1879.	EDWARD J. PHELPS,	John Marshall.
1880.	CORTLANDT PARKER,	Alexander Hamilton and William Paterson.
1881.	CLARKSON N. POTTER,	Roger Brooke Taney.
1882.	ALEXANDER R. LAWTON,	James Lewis Petigru and Hugh Swinton Legaré.
1883.	JOHN W. STEVENSON,	James Madison.
1884.	JOHN F. DILLON,	American Institutions and Laws.
1885.	GEORGE W. BIDDLE,	An Inquiry into the Proper Mode of Trial.
1886.	THOMAS J. SEMMES,	The Civil Law and Codification.
1887.	HENRY HITCHCOCK,	General Corporation Laws.
1888.	GEORGE HOADLY,	Codification.
1889.	SIMEON E. BALDWIN,	The Centenary of Modern Government.
1890.	JAMES C. CARTER,	The Ideal and the Actual in the Law.
1891.	ALFRED RUSSELL,	Avoidable Causes of Delay and Uncertainty in our Courts.
1892.	J. RANDOLPH TUCKER,	British Institutions and American Constitutions.
1893.	HENRY B. BROWN,	The Distribution of Property.
1894.	MOORFIELD STOREY,	The American Legislature.
1895.	WILLIAM H. TAFT,	Recent Criticism of the Federal Judiciary.
1896.	LORD RUSSELL OF KILLOWEN, Lord Chief Justice of England,	International Law and Arbitration.
1897.	JOHN W. GRIGGS,	Lawmaking.
1898.	JOSEPH H. CHOATE,	Trial by Jury.
1899.	WILLIAM LINDSAY,	Power of the United States to Acquire and Govern Foreign Territory.
1900.	GEORGE R. PECK,	The March of the Constitution.

PAPERS READ.

YEAR.	NAME.	SUBJECT.
1879.	CALVIN G. CHILD,	Shifting Uses, from the Standpoint of the Nineteenth Century.
1879.	HENRY HITCHCOCK,	The Inviolability of Telegrams.
1879.	GEORGE A. MERCER,	The Relationship of Law and National Spirit.
1880.	HENRY E. YOUNG,	Sunday Laws.
1880	GEORGE TUCKER BISPHAM, . .	Rights of Material Men and Em- ployees of Railroad Companies as against Mortgagees.
1880.	HENRY D. HYDE,	Extradition between the States.
1881.	THOMAS M. COOLEY,	The Recording Laws of the United States.
1881.	SAMUEL WAGNER,	The Advantages of a National Bankrupt Law.
1882.	GUSTAVE KOERNER,	The Doctrine of Punitive Damages and its Effect on the Ethics of the Profession.
1882.	U. M. ROSE,	Titles of Statutes.
1882.	THOMAS J. SEMMES,	The Civil Law as Transplanted in Louisiana.
1883.	ROBERT G. STREET,	How far Questions of Public Pol- icy may enter into Judicial Decisions.
1883.	JOHN M. SHIRLEY,	The Future of our Profession.
1883.	SIMEON E. BALDWIN,	Preliminary Examinations in Criminal Proceedings.
1883.	SEYMOUR D. THOMPSON, . . .	Abuses of the Writ of Habeas Corpus.
1884	ANDREW ALLISON,	The Rise and Probable Decline of Private Corporations in America.
1884.	M. DWIGHT COLLIER,	Stock Dividends and their Re- straint.
1884.	SIMON STERNE,	The Prevention of Defective and Slipshod Legislation.

YEAR.	NAME.	SUBJECT.
1885.	RICHARD M. VENABLE,	Partition of Powers between the Federal and State Governments.
1885.	REUBEN C. BENTON,	The Distinction between Legislative and Judicial Functions.
1885.	FRANCIS RAWLE,	Car Trust Securities.
1886.	JOHNSON T. PLATT,	The Opportunity for the Development of Jurisprudence in the United States.
1886.	WILLIAM P. WELLS,	The Dartmouth College Case and Private Corporations.
1886.	JOHN F. DILLON,	Law Reports and Law Reporting.
1887.	HENRY JACKSON,	Indemnity the Essence of Insurance; Causes and Consequences of Legislation qualifying this Principle.
1887.	JAMES K. EDSALL,	The Granger Cases and the Police Power.
1888.	J. RANDOLPH TUCKER,	Congressional Power over Inter-State Commerce.
1888.	J. M. WOOLWORTH,	Jurisprudence Considered as a Branch of the Social Science.
1889.	HENRY B. BROWN,	Judicial Independence.
1889.	WALTER B. HILL,	The Federal Judicial System.
1890.	HENRY C. TOMPKINS,	The Necessity for Uniformity in the Laws Governing Commercial Paper.
1890.	DWIGHT H. OLNSTEAD,	Land Transfer Reform.
1890.	JOHN F. DUNCOMBE,	Election Laws.
1891.	FREDERICK N. JUDSON,	Liberty of Contract under the Police Power.
1891.	W. B. HORNBLLOWER,	The Legal Status of the Indian.
1892.	JOHN W. CARY,	Limitations of the Legislative Power in Respect to Personal Rights and Private Property.
1892.	WILLIAM L. SNYDER,	The Problem of Uniform Legislation.
1893.	HENRY WADE ROGERS,	The Treaty-Making Power.
1893.	W. W. MCFARLAND,	The Evolution of Jurisprudence.
1893.	U. M. ROSE,	Trusts and Strikes.

YEAR.	NAME.	SUBJECT.
1894.	HAMPTON L. CARSON,	Great Dissenting Opinions.
1894.	CHARLES CLAFLIN ALLEN, . .	Injunction and Organized Labor.
1895.	WILLIAM WIRT HOWE,	Historical Relation of the Roman Law to the Law of England.
1895.	RICHARD WAYNE PARKER, . .	The Tyrannies of Free Government, or the Modern Scope of Constitutional Guarantees of Liberty and Property.
1896.	JAMES M. WOOLWORTH,	The Development of the Law of Contracts.
1896.	JOSEPH B. WARNER,	The Responsibilities of the Lawyer.
1896.	MONTAGUE CRACKANTHORPE, of the English Bar,	The Uses of Legal History.
1897.	ROBERT MATHER,	Constitutional Construction and the Commerce Clause.
1897.	EUGENE WAMBAUGH,	The Present Scope of Government.
1898.	LYMAN D. BREWSTER,	Uniform State Laws.
1898.	L. C. KRAUTHOFF,	Malice as an Ingredient of a Civil Cause of Action.
1899.	EDWARD Q. KEASBEY,	New Jersey and the Great Corporations.
1899.	SIR WM. RANN KENNEDY, Judge of the English High Court;	The State Punishment of Crime.
1900.	EDWARD AVERY HARRIMAN, .	<i>Ultra Vires</i> Corporation Leases.
1900.	JOHN BASSETT MOORE,	A Hundred Years of American Diplomacy.
1900.	RICHARD M. VENABLE,	Growth or Evolution of Law.

SECTION OF LEGAL EDUCATION.

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1893.	AUSTIN ABBOTT,	Existing Questions of Legal Education.
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